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असाधारण

EXTRAORDINARY

भाग II—खण्ड 3—उपखण्ड (i)

PART II—Section 3—Sub-section (i)

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed
as a separate compilation

SUPREME COURT OF INDIA

NOTIFICATIONS

New Delhi, the 30th December 1965

G.S.R. 102.—The following is published for general information:

In exercise of the powers conferred by rule 1 of Order I, of the Supreme Court Rules, 1966, the Hon'ble the Chief Justice of India has been pleased to appoint the 1st day of March 1966, as the date from which the Supreme Court Rules, 1966 shall come into force.

[No. F. 10/65/S.C.M.J.(11).]

G.S.R. 103.—The following is published for general information:

In exercise of the powers conferred by Article 145 of the Constitution, and all other powers enabling it in this behalf, the Supreme Court hereby makes, with the approval of the President, the following rules, namely:—

PART I—General.

ORDER I

INTERPRETATION, ETC.

1. (1) These rules may be cited as the Supreme Court Rules, 1966.

(2) They shall come into force on such date as the Chief Justice of India may, by notification in the Official Gazette, appoint and different dates may be appointed for different provisions of these rules:

Provided that proceedings pending in the Supreme Court or any High Court in relation to appeals by virtue of certificates granted under article 132(1), article 133(1) or article 135 of the Constitution shall, unless otherwise ordered by this Court, be governed by the rules in force prior to the appointed date, and all steps therein shall continue to be taken in accordance with the said rules.

2. (1) In these rules, unless the context otherwise requires—

(a) 'advocate' means a person whose name is entered on the common roll maintained under section 20 of the Advocates Act, 1961 (25 of 1961);

(b) 'advocate on record' means an advocate who is entitled under these rules to act as well as to plead for a party in the Court;

(c) 'appointed day' means the date on which these rules shall come into force;

(d) 'Chief Justice' means the Chief Justice of India, and includes a Judge appointed under article 126 of the Constitution to perform the duties of the Chief Justice;

(e) 'Code' means the Code of Civil Procedure, 1908 (5 of 1908);

(f) 'Constitution' means the Constitution of India;

(g) 'Court' and 'this Court' means the Supreme Court of India;

(h) 'court appealed from' includes a tribunal or any other judicial body from which an appeal is preferred to the Court;

(i) 'High Court' means—

(i) as respects anything done before the commencement of the Constitution, a High Court within the meaning of section 219 of the Government of India Act, 1935; and

(ii) as respects anything done or to be done after the commencement of the Constitution, a High Court established by or recognised under the Constitution;

(j) 'Judge' means a Judge of the Court;

(k) 'judgment' includes decree, order, sentence or determination of any court, tribunal, judge or judicial officer;

(l) 'prescribed' means prescribed by or under these rules;

(m) 'record' in Part II of these rules means the aggregate of papers relating to an appeal (including the pleadings, proceedings, evidence and judgments) proper to be laid before the Court at the hearing of the appeal;

(n) 'Registrar' and 'Registry' means respectively the Registrar and Registry of the Court;

(o) 'respondent' includes an intervener;

(p) 'the rules' and 'rules of Court' mean these rules and include the forms appended to these rules;

(q) 'senior advocate' means any advocate so designated under sub-section (2) of section 16 of the Advocates Act, 1961 (25 of 1961), and all such advocates whose names were borne on the roll of the senior advocates of the Court immediately before the commencement of Chapter III of the Advocates Act, 1961;

(r) 'Taxing Officer' means the officer of the Court whose duty it is to tax costs of proceedings in the Court.

(2) The General Clauses Act, 1897 (10 of 1897), shall apply for the interpretation of these rules as it applies for the interpretation of an Act of Parliament.

3. Where, by these rules or by any order of the Court, any step is required to be taken in connection with any cause, appeal, or matter before the Court, that step shall, unless the context otherwise requires, be taken in the Registry.

4. Where any particular number of days is prescribed by these rules, or is fixed by an order of the Court, in computing the same, the day from which the said period is to be reckoned shall be excluded, and, if the last day expires on a day when the Court is closed, that day and any succeeding days on which Court remains closed shall also be excluded.

ORDER II

OFFICES OF THE COURT: SITTINGS AND VACATION, ETC.

1. Except during vacation and on Saturdays and holidays, the offices of the Court, shall, subject to any order by the Chief Justice, be open daily from 10 A.M. to 5.00 P.M., but no work, unless of an urgent nature, shall be admitted after 4.30 P.M.

2. The offices of the Court shall, except during vacation, be open on Saturdays from 10.30 A.M. to 1.30 P.M., but no work, unless of an urgent nature, shall be admitted after 12.30 P.M.

3. Except on Saturdays and holidays, the offices of the Court shall be open during vacation at such times as the Chief Justice may direct.

4. (1) The Court shall sit in two terms annually, the first commencing from the termination of the summer vacation and ending with the day immediately preceding such day in December as the Court may fix for the commencement of the Christmas and New Year holidays and the second commencing from the termination of the Christmas and New Year holidays and ending with the commencement of the summer vacation.

(2) The period of the summer vacation shall not exceed ten weeks.

(3) The length of the summer vacation and the number of holidays shall be such as may be fixed by the Chief Justice and notified in the Official Gazette so as not to exceed one hundred and three days (excluding Sundays not falling in the vacation and during holidays).

5. The Court shall not ordinarily sit on Saturdays, nor on any other days notified as Court holidays in the Official Gazette.

6. The Chief Justice may appoint one or more Judges to hear during summer vacation or winter holidays all matters of an urgent nature which under these rules may be heard by a Judge sitting singly, and, whenever necessary, he may likewise appoint a Division Court for the hearing of urgent cases during the vacation which require to be heard by a Bench of Judges.

ORDER III

OFFICERS OF THE COURT, ETC.

1. The Registrar shall have the custody of the records of the Court and shall exercise such other functions as are assigned to him by these Rules.

2. The Chief Justice may assign, and the Registrar may, with the approval of the Chief Justice, delegate, to a Deputy Registrar or Assistant Registrar, any functions required by these rules to be exercised by the Registrar.

3. In the absence of the Registrar, the Deputy Registrar may exercise all the functions of the Registrar.

4. The official seal to be used in the Court shall be such as the Chief Justice may from time to time direct, and shall be kept in the custody of the Registrar.

5. Subject to any general or special directions given by the Chief Justice, the seal of the Court shall not be affixed to any writ, rule, order, summons or other process save under the authority in writing of the Registrar, or Deputy Registrar.

6. The seal of the Court shall not be affixed to any certified copy issued by the Court save under the authority in writing of the Registrar or of a Deputy Registrar or Assistant Registrar.

7. (1) The Registrar shall keep a list of all cases pending before the Court, and shall, at the commencement of each term, prepare and publish on the notice board of the Court a list of all cases ready for hearing in each class separately, to be called the "ready list". The cases in the "ready list" shall be arranged yearwise in each class separately in the order of their registration, and the list shall be added to from time to time as and when fresh cases become ready for hearing.

(2) Out of the "ready list" the Registrar shall publish on the notice board of the Court at the end of each month a list of cases to be heard during the following month. Subject to any general or special directions that may be given by

the Chief Justice and subject to the orders of the Court and the other provision of these rules, the cases listed for hearing in the monthly list in each class shall be in the order in which the cases have been registered. From out of the monthly list, the Registrar shall publish at the end of each week a list of cases to be heard in the following week, as far as possible, in the order in which they appear in the monthly list, subject to the directions of the Chief Justice and of the Court, if any, and out of the weekly list shall publish at the end of each day a daily list of cases to be heard by the Court on the following day.

8. In addition to the powers conferred by other rules, the Registrar shall have the following duties and powers subject to any general or special order of the Chief Justice, namely:—

- (i) to require any plaint, petition of appeal, petition or other proceeding presented to the Court to be amended in accordance with the practice and procedure of the Court or to be represented after such requisition as the Registrar is empowered to make in relation thereto has been complied with;
- (ii) to fix the date of hearing of appeals, petitions or other proceedings and issue notices thereof;
- (iii) to settle the index in cases where the record is prepared in the Court;
- (iv) to make an order for change of advocate on record with the consent of the advocate on record;
- (v) to direct any formal amendment of record;
- (vi) to grant leave to inspect and search the records of the Court and order the grant of copies of documents to parties to proceedings;

and without interfering or dispensing with any mandatory requirement of these Rules—

- (vii) to allow from time to time on a written request any period or periods not exceeding twenty-eight days in aggregate for furnishing information or for doing any other act necessary to bring the plaint, appeal, petition or other proceeding in conformity with the rules and practice of the Court.

ORDER IV

ADVOCATES

1. Subject to the provisions of these rules only those advocates whose names are entered on the common roll maintained by the Bar Council of India under section 20 of the Advocates Act, 1961 (25 of 1961) shall be entitled to appear and plead before the Court:

Provided that the Court may, if for any special reason it thinks desirable to do so, permit any other person to appear before it in a particular case.

2. (a) The Chief Justice and the Judges may, with the consent of the advocate, designate an advocate as senior advocate if in their opinion by virtue of his ability, experience and standing at the Bar the said advocate is deserving of such distinction.

(b) A senior advocate shall not—

- (i) file a vakalatnama or act in any court or tribunal in India,
- (ii) appear without an advocate on record in the Court or without a junior in any other court or tribunal in India,
- (iii) accept instructions to draw pleadings or affidavits, advice on evidence or do any drafting work of an analogous kind in any court or tribunal in India or undertake conveyancing work of any kind whatsoever but this prohibition shall not extend to settling any such matter as aforesaid in consultation with a junior,
- (iv) accept directly from a client any brief or instructions to appear in any court or tribunal in India.

Explanation:

In this Order—

(i) 'acting' means filing an appearance or any pleadings or applications in any court or tribunal in India, or any act (other than pleading) required or authorised by law to be done by a party in such court or tribunal either in person or by his recognised agent or by an advocate or attorney on his behalf.

(ii) 'tribunal' includes any authority or person legally authorised to take evidence and before whom advocates are, by or under any law for the time being in force, entitled to practise.

(iii) 'junior' means an advocate other than a senior advocate.

(c) Upon an advocate being designated as a senior advocate, the Registrar shall communicate to all the High Courts and the Secretary to the Bar Council of India the name of the said Advocate and the date on which he was so designated.

3. Every advocate appearing before the Court shall wear such robes and costume as may from time to time be directed by the Court.

4. Any advocate not being a senior advocate may, on his fulfilling the conditions laid down in rule 5, be registered in the Court as an advocate on record:

Provided that notwithstanding anything contained in rule 5, any advocate whose name was registered with the Registrar as an advocate on record immediately before the 8th day of September, 1962, shall be registered as an advocate on record.

5. No advocate shall be qualified to be registered as an advocate on record unless he—

- (i) has undergone training for one year with an advocate on record approved by the Court, and has thereafter passed such tests as may be held by the Court for advocates who apply to be registered as advocates on record, particulars whereof shall be notified in the Official Gazette from time to time, provided however that an attorney shall be exempted from such training and test;
- (ii) has an office in Delhi within a radius of 10 miles from the Court House and gives an undertaking to employ, within one month of his being registered as advocate on record, a registered clerk; and
- (iii) pays a registration fee of twentyfive rupees.

6. (a) An advocate on record shall, on his filing a memorandum of appearance on behalf of a party accompanied by a vakalatnama duly executed by the party, be entitled—

- (i) to act as well as to plead for the party in the matter and to conduct and prosecute before the Court all proceedings that may be taken in respect of the said matter or any application connected with the same or any decree or order passed therein including proceedings in taxation and applications for review; and
- (ii) to deposit and receive money on behalf of the said party.

(b) No advocate other than an advocate on record shall be entitled to file an appearance or act for a party in the Court.

(c) Every advocate on record shall keep such books of account as may be necessary to show and distinguish in connection with his practice as an advocate on record—

- (i) moneys received from or on account of and the moneys paid to or on account of each of his clients; and
- (ii) the moneys received and the moneys paid on his own account.

(d) Every advocate on record shall, before taxation of the Bill of Costs, file with the Taxing Officer a certificate showing the amount of fee paid to him or agreed to be paid to him by his client.

7. Where an advocate on record ceases to have an office or a registered clerk or both as required by clause (ii) of rule 5, notice shall issue to such advocate to show cause before the Chamber Judge on a date fixed, why his name should not be struck off the register of advocates on record, and if the Chamber Judge makes such an order, the name of such advocate shall be removed from the register accordingly and the advocate shall thereafter cease to be entitled to act as an advocate on record.

8. Where an advocate on record is suspended or his name is removed from the common roll maintained under the Advocates Act, 1961 (25 of 1961), he shall, unless otherwise ordered by the Court, be deemed as from the date of the order of the State Bar Council or the Bar Council of India, as the case may be, to be suspended or removed from the register of advocates on record for the same period as is mentioned in the order of the State Bar Council or the Bar Council of India, as the case may be.

9. Any advocate on record may at any time by letter request the Registrar to remove his name from the register of advocates on record, absolutely or subject to his continuing to act as advocate on record in respect of all or any of the pending cases in which he may have filed a vakalatnama, of which he shall file a list. The Registrar shall thereupon remove his name from the register of advocates on record, absolutely or subject as aforesaid.

10. No advocate other than an advocate on record shall appear and plead in any matter unless he is instructed by an advocate on record.

11. Every advocate on record shall notify to the Registrar the address of his office in Delhi and every change of such address, and any notice, writ, summons, or other document served on him or his clerk at the address so notified by him shall be deemed to have been properly served.

12. (1) An advocate on record or a firm of advocates may employ one or more clerks to attend the Registry for presenting or receiving any papers on behalf of the said advocate or firm of advocates:

Provided that the clerk has been registered with the Registrar on an application in the prescribed form made to the Registrar for the purpose.

Provided further that the said clerk gives an undertaking that he shall attend the Registry regularly.

(2) Notice of every application for the registration of a clerk shall be given to the Secretary, Supreme Court Bar Association, who shall be entitled to bring to the notice of the Registrar within seven days of the receipt of the notice any facts which in his opinion may have a bearing on the suitability of the clerk to be registered.

(3) The Registrar may decline to register any clerk who in his opinion is not sufficiently qualified, or is otherwise unsuitable to be registered as such, and may for reasons to be recorded in writing, remove from the register the name of any clerk after giving him and the employer an opportunity to show cause against such removal. Intimation shall be given to the Secretary, Bar Association, of every order registering a clerk or removing a clerk from the register.

(4) Every clerk shall, upon registration, be given an identity card which he shall produce whenever required, and which he shall surrender when he ceases to be the clerk of the advocate or firm of advocates, for whom he was registered. Where a fresh identity card is required in substitution of one that is lost or damaged, a fee of three rupees shall be levied for the issue of the same.

(5) Every advocate on record shall have a registered clerk. No advocate may employ as his clerk any person who is a tout.

13. (1) The Registrar shall publish lists of persons proved to his satisfaction, by evidence of general repute or otherwise, habitually to act as touts to be known as 'list of touts' and may, from time to time, alter and amend such lists.

A copy of every list of touts shall be displayed on the notice board of the Court.

Explanation:

In this Order—

(a) 'tout' means a person who procures, in consideration of any remuneration moving from any advocate or from any person acting on his

behalf, the employment of such advocate in any legal business, or who proposes to or procures any advocate, in consideration of any remuneration moving from such advocate or from any person acting on his behalf, the employment of the advocate in such business, or who, for purposes of such procurement, frequents the precincts of the Court.

- (b) the passing of a resolution by the Supreme Court Bar Association or by a High Court Bar Association declaring any person to be a tout shall be evidence of general repute of such person for the purpose of this rule.

(2) No person shall be included in the list of touts unless he has been given an opportunity to show cause against the inclusion of his name in such list. Any person may appeal to the Chamber Judge against the order of the Registrar including his name in such list.

(3) The Registrar may, by general or special order, exclude from the precincts of the Court all such persons whose names are included in the list of touts.

14. No person having an advocate on record shall file a vakalatnama authorising another advocate on record to act for him in the same case save with the consent of the former advocate on record or by leave of the Judge in Chambers, unless the former advocate on record is dead, or is unable by reason of infirmity of mind or body to continue to act.

15. Where a party changes his advocate on record, the new advocate on record shall give notice of the change to all other parties appearing.

16. No advocate on record may, without the leave of the Court, withdraw from the conduct of any case by reason only of the non-payment of fees by his client.

17. No person having an advocate on record shall be heard in person save by special leave of the Court.

18. No advocate on record shall authorise any person whatsoever, except another advocate on record, to act for him in any case.

19. Every advocate on record shall be personally liable to the Court for the due payment of all fees and charges payable to the Court.

20. Two or more advocates on record may enter into a partnership with each other, and any partner may act in the name of the partnership provided that the partnership is registered with the Registrar. Any change in the composition of the partnership shall be notified to the Registrar.

21. Two or more advocates not being senior advocates or advocates on record, may enter into partnership and subject to the provisions contained in rule 9, anyone of them may appear in any cause or matter before the Court in the name of the partnership.

ORDER V

APPEALS UNDER SECTION 38 OF THE ADVOCATES ACT, 1961 (25 OF 1961)

1. An appeal from an order made by the Disciplinary Committee of the Bar Council of India under section 36 or section 37 of the Advocates Act, 1961, (25 of 1961) shall be lodged in the Court within sixty days from the date on which the order complained of is communicated to the aggrieved person:

Provided that in computing the period of sixty days the time requisite for obtaining an authenticated copy of the order sought to be appealed from shall be excluded.

2. The memorandum of appeal shall be in the form of a petition. It shall state succinctly and clearly all the relevant facts leading up to the order complained of, and shall set forth in brief the objections to the decision appealed from and the grounds relied on in support of the appeal. The Petition shall also state the date on which the order complained of was received by the appellant. The allegations of facts contained in the petition which cannot be verified by reference to the duly authenticated copies of the documents accompanying it shall be supported by affidavit of the appellant.

3. The petition shall be divided into paragraphs, numbered consecutively, each paragraph being confined to a distinct portion of the subject and shall be typed or cyclostyled or printed on one side of standard petition paper, demy-foolscap size, or on paper of equally superior quality.

4. The petition shall be made on a court-fee stamp of the value of ten rupees and shall be signed by the appellant, where the appellant appears in person, or by a duly authorised advocate on record on his behalf.

5. The petition of appeal shall be accompanied by:

- (i) an authenticated copy of the decision sought to be appealed from; and
- (ii) at least seven spare sets of the petition and the papers filed with it.

6. The Registrar after satisfying himself that the petition of appeal is in order, shall endorse thereon the date of presentation, register the same as an appeal and send a copy thereof to the Secretary, Bar Council of India, for record.

7. On the registration of the petition of appeal, the Registrar shall, after notice to the appellant or his advocate on record, if any, post the appeal before the Court for preliminary hearing and for orders as to issue of notice. Upon such hearing, the Court, if satisfied that no *prima facie* case has been made out for its interference, may dismiss the appeal, and, if not so satisfied, direct that notice of the appeal be issued to the Advocate-General of the State concerned or to the Attorney-General for India or to both and to the respondent.

8. Within ten days of the receipt by him of the intimation of admission of appeal under rule 7, the Secretary of the Bar Council of India shall transmit to the Court the entire original record relating to the case and such number of copies of the paper books prepared for the use of the Disciplinary Committee of the Bar Council of India as may be available.

9. Within fifteen days of the service of the notice of admission of appeal under rule 7 the Advocate General of the State or the Attorney General or the respondent may cause an appearance to be entered either personally or by an advocate on record on his behalf.

10. Where a respondent does not enter appearance within the time limited under rule 9, the appeal shall be set down for hearing *ex-parte* as against him on the expiry of the period of one month from the receipt by him of the notice of the admission of appeal.

11. After the receipt of the original record the Registrar shall with all convenient speed, in consultation with the parties to the appeal, select the documents necessary and relevant for determining the appeal and cause sufficient number of copies of the said record to be typed or cyclostyled or printed at the expense of the appellant.

12. Unless otherwise ordered by the Court every appeal under this Order shall be made ready and if possible posted for hearing before the Court within four months of the registration thereof.

13. Where the appellant fails to take any steps in the appeal within the time fixed for the purpose by these rules or unduly delays in bringing the appeal to a hearing, the Registrar shall call upon him to explain his default and if no explanation is offered, or if the explanation offered is, in the opinion of the Registrar, insufficient, the Registrar may after notifying all the parties who have entered appearance, place the appeal before the Court for orders on the default, and the Court may dismiss the appeal for want of prosecution or give such directions in the matter as it may think fit and proper.

14. The costs of and incidental to all proceedings in the appeal shall be in the discretion of the Court.

ORDER VI

BUSINESS IN CHAMBERS

1. The powers of the Court in relation to the following matters may be exercised by the Registrar, namely:—

- (1) Applications for discovery and inspection.
- (2) Applications for delivery of interrogatories.

- (3) Applications for substituted service, or for dispensing with service of notice of the appeal on any of the respondents to the appeal under rule 10 of Order XV.
 - (4) Applications for time to plead, for production of documents, and generally relating to the conduct of cause, appeal or matter save those coming under rule 2 of this Order.
 - (5) Applications for leave to take documents out of the custody of the Court.
 - (6) Questions arising in connection with the payment of court-fees.
 - (7) Applications by third parties for return of documents.
 - (8) Applications for grant of copies of records to third parties.
 - (9) Applications for the issue of a certificate regarding any excess court-fee paid under a mistake.
 - (10) Applications for requisitioning records from the custody of any court or other authority.
 - (11) Applications for condoning delay in paying deficit court-fees or delay in representation.
 - (12) Application for condonation of delay in filing statement of case, provided that where the Registrar does not think fit to excuse the delay, he shall refer the application to the Court for orders.
 - (13) Applications for appointment and for approval of a translator or interpreter.
 - (14) Applications for withdrawal of appeal by an appellant prior to his lodging the petition of appeal.
 - (15) Applications for substitution, except where the substitution would involve setting aside an abatement.
 - (16) Applications for production of documents outside Court premises.
 - (17) Applications for change or discharge of advocate on record.
 - (18) Applications to withdraw suits.
 - (19) Applications for payment into Court.
 - (20) Applications for payment out of Court of money or security, or interest or dividend on securities.
 - (21) Applications for extending returnable dates of warrants.
 - (22) Applications to appoint or discharge a next friend or guardian of a minor or a person of unsound mind and direct amendment of the record thereon.
 - (23) Applications for refund of security or part thereof, or for payment out of security amount.
2. The powers of the Court in relation to the following matters may be exercised by a Single Judge sitting in Chambers, namely:—
- (1) Applications by advocate on record for leave to withdraw.
 - (2) Applications for leave to compromise or discontinue an appeal in *forma pauperis*.
 - (3) Applications for striking out or adding party or for intervention in a suit, appeal or other proceeding.
 - (4) Applications for separate trials of causes of action.
 - (5) Applications for separate trials to avoid embarrassment.
 - (6) Rejection of plaint.
 - (7) Applications for setting down for judgment in default of written statement.

- (8) Applications for better statement of claim or defence.
- (9) Applications for particulars.
- (10) Applications for striking out any matter in a pleading.
- (11) Applications for amendment of pleading and for enlargement of time to amend any pleading.
- (12) Applications to tax bills returned by the Taxing Officer.
- (13) Applications for review of taxation.
- (14) Applications for enlargement or abridgement of time except where the time is fixed by the Court or relates to deposit of security and except applications for condonation of delay in filing special leave petitions.
- (15) Applications for issue of commissions.
- (16) Applications for security for costs.
- (17) Applications for assignment of security Bonds.
- (18) Questions arising in taxation referred by the Taxing Officer.
- (19) Applications for orders against clients for payment of costs.
- (20) Applications for taxation and delivery of bills of costs, and for delivery by an advocate of documents and papers.
- (21) Applications for registration of advocates as advocates on record.
- (22) Applications for leave to proceed in *forma pauperis*.
- (23) Applications for grant of bail where the petitioner is confined in jail.
- (24) Applications for stay of execution of a sentence or order in criminal proceedings.
- (25) Applications by accused persons in custody for being produced before the Court at the hearing of the appeal.
- (26) Consent applications in interlocutory matters.
- (27) Applications by accused persons for engagement of advocate under rule 25 of Order XXI.
- (28) Fixing the remuneration of a guardian *ad litem*.
- (29) Applications for directions regarding the preparation of record in an appeal, petition, or other proceeding.
- (30) Applications for dispensing with advocate's certificate in Review Applications.
- (31) Applications to dispense with statements of case in criminal appeals.

3. Any person aggrieved by any order made by the Registrar under this Order may, within fifteen days of the making of such order, appeal against it to the Judge in Chambers.

4. The Registrar may, and, if so directed by the Judge in Chambers, shall, at any time adjourn any matter and lay the same before the Judge in Chambers, and the Judge in Chambers may at any time adjourn any matter and lay the same before the Court.

ORDER VII

CONSTITUTION OF DIVISION COURTS AND POWERS OF A SINGLE JUDGE

1. Subject to the other provisions of these rules, every cause, appeal or matter shall be heard by a Bench consisting of not less than two Judges nominated by the Chief Justice.

2. When in the course of the hearing of any cause, appeal or other proceeding, the Bench considers that the matter should be dealt with by a larger Bench, it

shall refer the matter to the Chief Justice, who shall thereupon constitute such a Bench for the hearing of it.

3. The Chief Justice may from time to time appoint a Judge to hear and dispose of all applications which may be heard by a Judge in Chambers under these rules.

4. During the vacation, the Vacation Judge sitting singly may, in addition to exercising all the powers of a Judge in Chambers under these rules, exercise the powers of the Court in relation to the following matters, namely:—

- (1) Application for special leave to appeal in urgent cases where interim relief is prayed for subject to the condition that the Vacation Judge shall not decide such a petition if it raises a substantial question of law as to the interpretation of the Constitution.
- (2) Applications for stay of execution of a decree or order or stay of proceedings in civil matters.
- (3) Applications for transfer of cases under section 527 of the Code of Criminal Procedure, 1898 (5 of 1898).
- (4) Applications for stay of proceedings in criminal matters.
- (5) Applications under article 32 of the Constitution of an urgent nature which do not involve a substantial question of law as to the interpretation of the Constitution.
- (6) Issue of a rule *nisi* in urgent applications under article 32 of the Constitution which involve a substantial question of law as to the interpretation of the Constitution.

ORDER VIII

NOTICES OF MOTION

1. Except where otherwise provided by any statute or prescribed by these rules, all applications which in accordance with these rules cannot be made in Chambers shall be made on motion after notice to the parties affected thereby.

2. Where the delay caused by notice would or might entail serious hardship, the applicant may pray for an *ad-interim ex-parte* order in the notice of motion, and the Court, if satisfied upon affidavit or otherwise that the delay caused by notice would entail serious hardship, may make an order *ex-parte* upon such terms as to costs or otherwise, and subject to such undertaking being given, if any, as the Court may think just, pending orders on the motion after notice to the parties affected thereby.

3. Where an *ex-parte* order is made by the Court, unless the Court has fixed a date for the return of the notice, or otherwise directs, the Registrar shall fix a date for the return of the notice and the application by notice of motion shall be posted before the Court for final orders on the returnable date.

4. A notice of motion shall be instituted in the suit or matter in which the application is intended to be made and shall state the time and place of application and the nature of the order asked for and shall be addressed to the party or parties intended to be affected by it, unless they have an advocate on record, in which case it will be addressed to the advocate on record, and shall be signed by the advocate on record of the party moving, or by the party himself where he acts in person.

5. (1) Unless otherwise ordered, the notice of motion together with the affidavit in support thereof shall be served on the opposite party not less than seven days before the day appointed for the motion where such opposite party has entered appearance, and not less than fourteen days before the day appointed for the motion where such party has not entered appearance.

The affidavits in opposition shall be filed in this Registry not later than five days before the day appointed for the hearing and affidavits in reply shall be filed not later than two days before the day of hearing. The affidavits in opposition or reply shall be served on the opposite party or parties and shall not be accepted in the Registry unless they contain an endorsement of service signed by such party or parties.

(2) Leave to serve short notice of motion may be obtained *ex-parte* from the Registrar upon affidavit.

6. Notice shall be given to the other party or parties of all grounds intended to be urged in support of, or in opposition to, any motion.

7. Any interlocutory or miscellaneous application, notwithstanding that it is made in an appeal or other proceeding in which a substantial question of law as to the interpretation of the Constitution is raised, may be heard and decided by a Bench of less than five Judges.

ORDER IX

PROCEEDINGS BY OR AGAINST MINORS OR PERSONS OF UNSOUND MIND

1. Every appeal, petition or other proceeding by a minor shall be instituted or continued in his name by his next friend.

2. A next friend shall not retire without the leave of the Court. The Court may require him to procure a fit person to be put in his place before he is permitted to retire, and may also, if it thinks fit, require him to furnish security for costs already incurred as a condition of his retirement.

3. (1) On the retirement, removal or death of the next friend of a minor, further proceedings shall be stayed until the appointment of a new next friend in his place.

(2) Where the advocate on record of such minor omits, within a reasonable time, to take steps to get a new next friend appointed, any person interested in the minor or in the matter in issue may apply to the Court for the appointment of one, and the Court may appoint such person as it thinks fit as the next friend of such minor.

4. An application for the appointment of a new next friend of a minor shall be supported by an affidavit showing that the person proposed is a fit and proper person to be so appointed and has no interest adverse to that of the minor.

5. Where a respondent to an appeal or petition is a minor and is not represented by a guardian, an application shall be made to the Court by the appellant or petitioner as the case may be, or by some person interested in the minor for the appointment of a guardian of such minor; and it shall be supported by an affidavit stating that the proposed guardian has no interest in the matter in question in the appeal or petition adverse to that of the minor. Where a person other than the father or other natural guardian of the minor is proposed as guardian, notice of the application shall be served on the father or other natural guardian of the minor, or on the person with whom the minor resides, not less than fourteen days before the day named in the notice for the hearing of the application. Where there is no other person fit and willing to act as guardian, the Court may appoint an officer of the Court to be the guardian.

6. (1) No guardian of a minor shall retire from a suit, appeal or other proceeding without the leave of Court. Where a guardian of a minor fails to do his duty or other sufficient cause is shown for his removal, the Court may remove him from the guardianship of the minor and make such order as to costs as it thinks fit.

(2) Where the guardian of a minor retires, dies or is removed by the Court during the pendency of the suit, appeal or other proceeding, the Court shall appoint a new guardian in his place.

7. When a guardian *ad litem* of a minor respondent is appointed, and it is made to appear to the Court that the guardian is not in possession of any, or sufficient, funds for the conduct of the appeal or petition on behalf of the respondent, and that the respondent will be prejudiced in his defence thereby, the Court may, in its discretion, from time to time, order the appellant or petitioner, as the case may be, to advance to the guardian of the minor for the purpose of his defence such moneys as the Court may fix, and all moneys so advanced shall form part of the costs of the appellant or petitioner in the appeal or petition, as the case may be. The order shall direct that the guardian do file in Court an account of the moneys so received by him.

8. An application to declare as a major a party to a proceeding described as a minor and to discharge his next friend or guardian shall be supported by an affi-

davit stating the age of the alleged major and the date on which he attained majority. Notice of the application shall be given to the next friend or guardian and to the alleged major.

9. No next friend or guardian of a minor in an appeal or other proceeding, shall, without the leave of the Court, expressly recorded in the proceedings, enter into any agreement or compromise on behalf of a minor with reference to the appeal or proceeding in which he acts as next friend or guardian.

10. An application made to the Court for leave to enter into an agreement or compromise or for the withdrawal of any appeal or other proceeding in pursuance of a compromise on behalf of a minor, shall be supported by an affidavit from the next friend or guardian of the minor stating that the agreement or compromise is for the benefit of the minor, and, where the minor is represented by an Advocate, by a certificate or by a statement at the Bar from such advocate to the effect that the agreement or compromise is, in his opinion, for the benefit of the minor. A decree or order made in pursuance of the compromise of an appeal or other proceeding, to which a minor is a party, shall recite the sanction of the Court thereto and shall set out the terms of the compromise.

11. The provisions of this Order, so far as they are applicable, shall apply to persons adjudged to be of unsound mind and to persons who, though not so adjudged, are found by the Court on inquiry, by reason of unsoundness of mind or mental infirmity, to be incapable of protecting their interests when suing or being sued.

12. Save as aforesaid, the provisions of Order XXXII of the Code relating to suits so far as applicable, shall apply *mutatis mutandis* to appeals and other proceedings in the Court.

ORDER X

DOCUMENTS

1. The officers of the Court shall not receive any pleading, petition, affidavit or other document, except original exhibits and certified copies of public documents, unless it is fairly and legibly written, type-written or lithographed in double-line spacing, on one side of standard petition paper, demy-foolscap size, or paper which is ordinarily used in the High Courts for the purpose. Copies filed for the use of the Court shall be neat and legible, and shall be certified to be true copies by the advocate on record, or by the party in person, as the case may be.

2. No document in a language other than English shall be used for the purpose of any proceedings before the Court, unless it is accompanied by:

- (a) a translation agreed to by both parties; or
- (b) a translation certified to be true translation by a translator appointed by the Court; or
- (c) the said document is translated by a translator appointed or approved by the Court.

3. Every document required to be translated shall be translated by a translator appointed or approved by the Court:

Provided that a translation agreed to by both parties, or certified to be a true translation by the translator appointed or approved by the Court, may be accepted.

4. Every translator shall, before acting, make an oath or affirmation that he will translate correctly and accurately all documents given to him for translation.

5. All complaints, petitions, applications and other documents shall be presented by the plaintiff, petitioner, applicant, appellant, defendant or respondent in person or by his duly authorised agent or by an advocate on record duly appointed by him for the purpose:

Provided that a party, who had been adjudged to be a pauper for the purpose of the proceedings in the courts below, may present the document before the Judicial authority of the place where the said party resides, and the said Judicial authority, after attesting the document and endorsing thereon under his seal and signature the date of presentation, shall transmit the same to the Court by

registered post, acknowledgment due at the expense of the party concerned. The date of presentation in this Court of the said document shall be deemed to be the date endorsed thereon by the said Judicial authority.

6. (1) All plaints, petitions, appeals or other documents shall be presented at the filing counter and shall, wherever necessary, be accompanied by the documents required under the Rules of the Court to be filed along with the said plaint, petition or appeal.

(2) On receipt of the document, the officer in charge of the filing counter shall endorse on the document the date of receipt and enter the particulars of the said document in the register of daily filings and cause it to be sent to the department concerned for examination. If, on a scrutiny, the document is found in order, it shall be duly registered and given a serial number of registration.

(3) Where a document is found to be defective, the said document shall, after notice to the party filing the same, be placed before the Registrar. The Registrar may, by an order in writing, decline to receive the document if, in his opinion, the mandatory requirements of the rules are not satisfied. Where, however, the defect noticed is formal, the Registrar may allow the party to rectify the same in his presence; but, in other cases, he may require the party to obtain an order from the Court permitting the party to rectify the same and for this purpose may allow to the party concerned, such time as may be necessary but not exceeding twentyeight days in aggregate.

(4) Where the party fails to take any steps for the removal of the defect within the time fixed for the same by the Registrar, the Registrar may, for reasons to be recorded in writing, decline to register the document.

(5) Any party aggrieved by any order made by the Registrar under this Rule may, within fifteen days of the making of such order, appeal against it to the Judge in Chambers.

7. The Registrar may on an application by the party interested, order the return of a document filed in a suit, appeal or matter if the person applying therefor delivers in the office a certified copy thereof to be substituted for the original.

8. (1) Except as otherwise provided by these rules or by any law for the time being in force, the court fees set out in the Third Schedule to these Rules shall be payable on the documents mentioned therein, and no document chargeable with a fee under the said Schedule shall be received or filed in the Registry unless the fee prescribed has been paid on it. No copy of a document shall be furnished to any person unless the fee prescribed therefor has been paid.

(2) All fees referred to in sub-rule (1) shall be collected in court fee stamps sold in Delhi in accordance with the provisions of the Court-fees Act as in force in the Union territory of Delhi.

(3) No document chargeable with a court fee shall be acted upon in any proceedings in this Court until the stamp thereon has been cancelled.

The officer receiving the document shall forthwith effect such cancellation by punching out the figure head so as to leave the amount designated on the stamp untouched and the part removed by punching shall be burnt or otherwise destroyed.

(4) Whenever a question of the proper amount of the court fees payable is raised, the Registrar or the Taxing Officer of the Court shall decide such question before the document or the proceeding is acted upon in the Registry and whenever it is found that due to a *bona fide* mistake the court fee paid is insufficient the Registrar shall call upon the party concerned to make good the deficiency within such time as the Registrar may think reasonable but not exceeding three months in any case.

(5) In case the deficiency in the court fee is made good within the time allowed, the date of the institution of the proceeding shall be deemed to be the date on which the proceeding was initially instituted.

(6) The Registrar may in a proper case on an application made by the party issue a certificate regarding any excess court fee paid under a mistake.

9. (1) The levy and collection of court fee under these rules shall be under the general superintendence of the Registrar of the Court who may be assisted in his supervision by the Assistant Registrars of the Court.

(2) Where at any time during the course of the pendency of a suit, appeal or proceedings, or even after the conclusion of such a proceeding it appears to the Registrar or the Taxing Officer that through mistake or inadvertence, a document which ought to be stamped in a certain manner has been received and acted upon without its being stamped or that the court fee paid thereon initially was insufficient, the Registrar or the Taxing Officer shall record a declaration to that effect and determine the amount of deficiency in court fee:

Provided that no such declaration shall be made until the party liable to pay the court fee has had an opportunity of being heard.

(3) When a declaration has been recorded under sub-rule (2) and if that relates to a matter pending before the court, the procedure prescribed by sub-rule (3) shall be followed; if it relates to the proceedings which have already been disposed of the Registrar shall, if the deficiency is not made good within three months of the declaration made, forward a requisition for the recovery of the same to the Central Government which shall recover the amount of such court fee from the person liable to pay the same as if it were an arrear of land revenue.

ORDER XI

AFFIDAVITS

1. The Court may at any time, for sufficient reason, order that any particular fact or facts may be proved by affidavit, or that the affidavit of any witness may be read at the hearing, on such conditions as the Court thinks reasonable:

Provided that where it appears to the Court that either party *bona fide* desires the production of a witness for cross-examination and that such witness can be produced, an order shall not be made authorising the evidence of such witness to be given by affidavit.

2. Upon any application evidence may be given by affidavit; but the Court may, at the instance of either party, order the attendance for cross-examination of the deponent, and such attendance shall be in Court, unless the deponent is exempted from personal appearance in Court or the Court otherwise directs.

3. Every affidavit shall be intitled in the cause, appeal or matter in which it is sworn.

4. Every affidavit shall be drawn up in the first person, and shall be divided into paragraphs to be numbered consecutively, and shall state the description, occupation, if any, and the true place of abode of the deponent.

5. Affidavits shall be confined to such facts as the deponent is able of his own knowledge to prove, except on interlocutory applications, on which statements of his belief may be admitted, provided that the grounds thereof are stated.

6. An affidavit requiring interpretation to the deponent shall be interpreted by an interpreter nominated or approved by the Court, if made within the State of Delhi, and if made elsewhere, shall be interpreted by a competent person who shall certify that he has correctly interpreted the affidavit to the deponent.

7. Affidavits for the purposes of any cause, appeal or matter before the Court may be sworn before a Notary or any authority mentioned in section 139 of the Code or before the Registrar of this Court, or before a Commissioner generally or specially authorised in that behalf by the Chief Justice.

8. Where the deponent is a *purdahnashin* lady she shall be identified by a person to whom she is known and that person shall prove the identification by a separate affidavit.

9. Every exhibit annexed to an affidavit shall be marked with the title and number of the cause, appeal or matter and shall be initialled and dated by the authority before whom it is sworn.

10. No affidavit having any interlineation, alteration or erasure shall be filed in Court unless the interlineation or alteration is initialled, or unless in the case of an erasure the words or figures written on the erasure are rewritten in the margin and initialled, by the authority before whom the affidavit is sworn.

11. The Registrar may refuse to receive an affidavit where in his opinion the interlineations, alterations or erasures are so numerous as to make it expedient that the affidavit should be rewritten.

12. Where a special time is limited for filing affidavits, no affidavit filed after that time shall be used except by leave of the Court.

13. In this Order, 'affidavit' includes a petition or other document required to be sworn or verified; and 'sworn' includes affirmed. In the verification of petitions, pleadings or other proceedings, statements based on personal knowledge shall be distinguished from statements based on information and belief. In the case of statements based on information, the deponent shall disclose the source of his information.

ORDER XII

INSPECTION, SEARCH, ETC.

1. Subject to the provisions of these rules, a party to any cause, appeal or matter who has appeared shall be allowed to search, inspect or get copies of all pleadings and other documents or records in the case, on payment of the prescribed fees and charges.

2. The Court, on the application of a person who is not a party to the case, appeal or matter, may on good cause shown, allow such person such search or inspection or to obtain such copies as is or are mentioned in the last preceding rule, on payment of the prescribed fees and charges.

3. A search or inspection under rule 1 or rule 2 during the pendency of a cause, appeal or matter, shall be allowed only in the presence of an officer of the Court and after twenty-four hours' notice in writing to the parties who have appeared, and copies of documents shall not be allowed to be taken, but notes of the search or inspection may be made.

4. Copies required under rule 1 or rule 2 may be certified as correct copies by the Registrar, Deputy Registrar, Assistant Registrar, or such other officer as may be authorised in that behalf by the Registrar.

5. An application may be made to the Registrar for the issue urgently of a copy of any judgment, decree or order of the Court or of any proceedings filed in the Court and upon the order being so made, the said copy shall be made ready and issued within seven days of the making of the application or such further time as the Registrar may specify.

6. No record or document filed in any cause, appeal or matter shall, without the leave of the Court, be taken out of the custody of the Court.

7. The Registrar may, in his discretion, permit any record to be sent to any court, tribunal or other public authority on requisition received from such court, tribunal or authority.

ORDER XIII

JUDGMENTS, DECREES AND ORDERS

1. The Court, after the case has been heard, shall pronounce judgment in open Court, either at once or on some future day, of which due notice shall be given to the parties or their advocates on record, and the decree or order shall be drawn up in accordance therewith.

2. A member of the Court may read a judgment prepared by another member of the Court.

3. Subject to the provisions contained in Order XL of these rules, a judgment pronounced by the Court or by a majority of the Court or by a dissenting Judge in open Court shall not afterwards be altered or added to, save for the purpose of correcting a clerical or arithmetical mistake or an error arising from any accidental slip or omission.

4. Certified copies of the judgment, decree or order shall be furnished to the parties on requisition made for the purpose, and at their expense.

5. Every decree passed or order made by the Court shall be drawn up in the Registry and be signed by the Registrar or Deputy Registrar and sealed with the seal of the Court and shall bear the same date as the judgment in the suit or appeal.

6. The decree passed or order made by the Court in every appeal, and any order for costs in connection with the proceedings therein, shall be transmitted by the Registrar to the court or tribunal from which the appeal was brought, and steps for the enforcement of such decree or order shall be taken in that Court or tribunal in the way prescribed by law.

7. Orders made by the Court in other proceedings shall be transmitted by the Registrar to the judicial or other authority concerned to whom such orders are directed, and any party may apply to the Judge in Chambers that any such order, including an order for payment of costs, be transmitted to any other appropriate court or other authority for enforcement.

8. In cases of doubt or difficulty with regard to a decree or order made by the Court, the Registrar or the Deputy Registrar shall, before issuing the draft, submit the same to the Court.

9. Where the Registrar or the Deputy Registrar considers it necessary that the draft of any decree or order should be settled in the presence of the parties or where the parties require it to be settled in their presence, the Registrar or the Deputy Registrar shall, by notice in writing, appoint a time for settling the same and the parties shall attend the appointment and produce the briefs and such other documents as may be necessary to enable the draft to be settled.

10. Where any party is dissatisfied with the decree or order as settled by the Registrar, the Registrar shall not proceed to complete the decree or order without allowing that party sufficient time to apply by motion to the Court.

ORDER XIV

PAYMENT INTO AND OUT OF COURT OF SUITORS' FUNDS

1. Unless otherwise ordered, all monies directed to be paid into this Court to the credit of any suit, appeal or other proceeding, shall be paid into the Reserve Bank of India at New Delhi (hereinafter referred to as the Bank), into an account entitled 'Government A/c-P-Deposits and Advances—II Deposits Not Bearing Int.—(C) Other Deposits A/cs.—Deptl. and Judicial Deposits—Civil Deposits—Civil Court Deposits'.

2. Notwithstanding anything contained in rule 3, rule 4 or rule 5 of the Registrar may, in appropriate cases, authorise the acceptance of moneys by demand drafts issued in favour of the Registrar and payable in Delhi or New Delhi by a Scheduled Bank, and direct that the said amount be deposited with the Reserve Bank as provided by rule 1. On encashment, the date of tender in such cases shall be deemed to be the date on which the demand draft is presented for encashment:

Provided that such tender by demand draft is made a day prior to the due date.

3. Any person ordered to pay money into Court shall present a lodgment schedule in the prescribed form to the Section Officer of the Accounts Section of the Registry for the issue of a chalan to enable him to make the payment into the Bank. The lodgment schedule shall be accompanied by a copy of the order directing the payment or shall bear a certificate from the Registrar endorsed thereon as to the amount to be paid and the time within which the payment is to be made.

4. On presentation of the lodgment schedule, a chalan, in duplicate in the prescribed form, specifying the amount to be paid and the date within which it should be paid, but in no case exceeding ten days from the date of issue of the chalan, shall be issued by the Section Officer, Accounts Section, to the party directed to make the payment, who shall thereupon present the same at the Bank and make the payment. The Bank shall, on receiving payment, retain one copy of the chalan and return the other copy, duly signed and dated acknowledging the receipt of the money, to the person making the payment. The Bank shall not accept the payment if the amount is tendered beyond the date mentioned in the chalan as the last date for payment.

5. On production of the copy of the chalan duly signed and acknowledged by the Bank as aforesaid, the person making the payment shall be given credit in the books maintained by the Accounts Section of the Registry for the amount paid into the Bank, and a receipt signed by the Registrar shall be issued to him and the said chalan shall be retained in the Section.

6. The Section Officer of the Accounts Section shall keep a register cause-wise of all money, effects and securities of the suitors of the Court, which shall be ordered to be paid or delivered into or out of the Court. The purpose for which the deposit is made and the orders of attachment received, if any, of the funds, shall be duly entered in the register. No money shall be paid out of the funds in Court without an order of the Court.

7. Where a party seeks payment out of any monies in Court, he shall present an application to the Court for an order for payment. The application shall be accompanied by a Certificate of funds signed by the Registrar showing the amount, if any, standing to the credit of the suit, appeal or other proceeding from which payment out is sought and the claims and attachments, if any, subsisting thereon on the date of the certificate.

8. Upon an order being made for payment out, the party in whose favour the order is made shall apply to the Registrar for payment to him in accordance with the said order. The Registrar shall thereupon issue an order for payment in the prescribed form for the amount to be paid in favour of the party entitled to payment. The payment order shall be endorsed at the same time on the original chalan received from the Bank. The payment order together with the chalan duly endorsed for payment shall be handed over to the party entitled to payment who shall present the same at the New Delhi Treasury and obtain payment. Where however the entire amount of the chalan or the entire balance remaining unpaid thereunder is not to be paid out to the party, the original chalan shall not be handed over to him, but only a copy thereof endorsed for payment shall be given to him for presentation at the Treasury, the original chalan being retained in the Accounts Section until the funds are fully paid out.

9. The Section Officer, Accounts Section, shall check and tally the accounts maintained in the Section every month with the monthly statements of receipts and payments to be received from the New Delhi Treasury and the Registrar shall certify under his signature every month that the accounts have been duly checked and tallied.

10. Nothing in this Order shall apply to the payment of fees relating to enrolment of advocates which may be paid into any Treasury or Sub-Treasury or the State Bank of India or the Reserve Bank, to the credit of an account entitled 'XXI-Administration of Justice—Receipts of the Supreme Court'.

PART II—Appellate Jurisdiction

(A) Civil Appeals

ORDER XV

APPEALS ON CERTIFICATE BY HIGH COURT

1. Where a certificate has been given under clause (1) of article 132 or clause (1) of article 133 or article 135 of the Constitution, the party concerned shall file a petition of appeal in the Court.

2. Subject to the provisions of sections 4, 5 and 12 of the Limitation Act, 1963 (36 of 1963) the petition of appeal shall be presented within sixty days from the date of the grant of the certificate of fitness.

3. (1) The petition shall recite succinctly and in chronological order with relevant dates, the principal steps in the proceedings leading up to the appeal from the commencement thereof till the grant of the certificate of leave to appeal to the Court, and shall also state the amount or value of the subject matter of the suit in the court of first instance and in the High Court, and the amount or value of the subject matter in dispute before the Court with particulars showing how the said valuation has been arrived at. Where the appeal is incapable of valuation, it shall be stated.

(2) The petition shall be accompanied by a certified copy of the decree or order appealed from. It shall not be necessary to file along with the petition of appeal a certified copy of the certificate of fitness granted by the High Court, but the petition shall be supported by an affidavit stating the date on which the application for certificate was made to the High Court, the date of the order granting the said certificate and the provision of law under which the said certificate has been granted.

(3) Where at any time between the grant by the High Court of the Certificate for leave to appeal to the Court and the filing of the petition of appeal, any party to the proceeding in the Court below dies, the petition of appeal may be filed by or against the legal representative, as the case may be, of the deceased party, provided that the petition is accompanied by a separate application, duly supported by an affidavit, praying for bringing on record such person as the legal representative of the deceased party and setting out the facts showing him to be the proper person to be entered on the record as such legal representative.

4. The Registrar, after satisfying himself that the petition of appeal is in order, shall endorse the date of presentation on the petition and register the same as an appeal in the Court.

5. Where a party desires to appeal on grounds which can be raised only with the leave of the Court, it shall lodge along with the petition of appeal a separate petition stating the grounds so proposed to be raised and praying for leave to appeal on those grounds.

6. Within thirty days of the filing of the petition of appeal, the appellant shall deposit in the Court security for the costs of the respondent.

7. The security for the costs of the respondent shall be in the sum of two thousand rupees. The Court may, in appropriate cases, enhance or reduce the amount of security to be deposited.

8. Where an appellant whose appeal has been registered in the Court fails to furnish the security within the time prescribed, or within such further time as the Court may allow, the Registrar shall call upon the appellant to show cause before the Court why the appeal should not be dismissed for non-prosecution.

9. The Court may after hearing the parties who have entered appearance dismiss the appeal for non-prosecution or give such other directions thereon as the justice of the case may require.

Appearance by Respondent

10. As soon as the security for the costs of the respondent has been deposited, the Registrar of the Court shall require the appellant—

(i) to furnish as many copies of the petition of appeal as may be considered necessary for record and for service on the respondent; and

(ii) to send to the Registrar of the Court appealed from a copy of the petition of appeal for record in that court and a copy for service upon the respondent or each respondent;

Provided that the Registrar of the Court may on an application made for the purpose, dispense with service of the petition of appeal on any respondent who did not appear in the proceedings in the Court appealed from or on his legal representative;

Provided however that no order dispensing with service of notice shall be made in respect of a respondent who is a minor or a lunatic;

Provided further that an order dispensing with service of notice shall not preclude any respondent or his legal representative from appearing to contest the appeal.

11. On receipt from the Court of the copy of the petition of appeal, the Registrar of the Court appealed from shall—

(i) cause notice of the lodgment of the petition of appeal to be served on the respondent personally or in such manner as the court appealed from may by rules prescribe;

(ii) unless otherwise ordered by the Court, transmit to the Court at the expense of the appellant the original record of the case; and

(iii) as soon as notice as aforesaid is served, to send a certificate as to the date or dates on which the said notice was served.

12. A respondent shall enter appearance in the Court within thirty days of the service on him of the notice of lodgment of the petition of appeal.

13. The respondent may within the time limited for his appearance deliver to the Registrar of the Court and to the appellant a notice in writing consenting to the appeal, and the Court may thereupon make such order on the appeal as the justice of the case may require without requiring the attendance of the person so consenting.

Preparation of Record

14. (1) The record shall be printed in accordance with the rules contained in the First Schedule to these rules and, unless otherwise ordered by the Court, it shall be printed under the supervision of the Registrar of the Court:

Provided that where the proceedings from which the appeal arises were had in courts below in a language other than English, the Registrar of the Court appealed from shall within three months from the date of the service on the respondent of the notice of petition of appeal transmit to the Court in triplicate a transcript in English of the record proper of the appeal to be laid before the Court, one copy of which shall be duly authenticated. The provisions contained in rules 15 to 20 shall apply to the preparation and transmission to the Court of the said transcript record.

(2) Upon receipt from the Court appealed from of the English transcript of the record as aforesaid the Registrar of the Court shall require the appellant to deposit the charges for making further copies of the said transcript within such time as he may prescribe, but not exceeding twenty-eight days, and, with all convenient speed, arrange for the preparation thereof.

(3) Unless otherwise ordered by the Court, at least twenty copies of the record shall be prepared.

15. (1) As soon as the original record of the case is received in the Court, the Registrar shall give notice to the parties of the arrival of the original record.

(2) The appellant shall within four weeks of the service upon him of the notice referred to in sub-rule (1), file a list of the documents which he proposes to include in the paper book, a copy whereof shall be served on the respondent. The respondent may within three weeks of the service on him of the said list file a list of such additional documents as he considers necessary for the determination of the appeal.

16. After the expiry of the time fixed for the filing of the additional list by the respondent, the Registrar shall fix a day for the settlement of list of documents to be included in the appeal record and shall give notice thereof to the parties who have entered appearance. In settling the lists the Registrar, as well as the parties concerned, shall endeavour to exclude from the record all documents that are not relevant to the subject matter of the appeal and generally to reduce the bulk of the record as far as practicable.

17. Where the respondent objects to the inclusion of a document on the ground that it is not necessary or is irrelevant and the appellant nevertheless insists upon its inclusion, the record as finally printed shall, with a view to subsequent adjustment of cost of and incidental to the printing of the said document, indicate in the index of papers or otherwise the fact that the respondent has objected to the inclusion of the document and that it has been included at the instance of the appellant.

18. Where the appellant objects to the inclusion of a document on the ground that it is not necessary or is irrelevant and the respondent nevertheless insists upon its inclusion, the Registrar, if he is of opinion that the document is not relevant, may direct that the said document be printed separately at the expense of the respondent and required the respondent to deposit within such time as he may prescribe, the necessary charges therefor; and the question of the costs thereof shall be dealt with by the Court at the time of the determination of the appeal.

19. As soon as the index of the record is settled, the Registrar concerned shall cause an estimate of the costs of the preparation of the record to be prepared and served on the appellant and to require him to deposit within thirty days of such service the said amount. The appellant may deposit the said amount in lump-sum or in such instalments as the Registrar may prescribe.

20. Where the record has been printed for the purpose of the appeal before the High Court and sufficient number of copies of the said printed record are

available, no fresh printing of the record shall be necessary except of such additional papers as may be required.

21. Where an appeal paper book is likely to consist of two hundred or less number of pages, the Registrar may, instead of having it printed, have the record cyclostyled under his supervision.

22. If at any time during the preparation of the record the amount deposited is found insufficient, the Registrar shall call upon the appellant to deposit such further sum as may be necessary within such further time as may be deemed fit but not exceeding twenty-eight days in the aggregate.

23. Where the appellant fails to make the required deposit, the preparation of the record shall be suspended and the Registrar concerned shall not proceed with the preparation thereof without an order in this behalf of the Court and where the record is under preparation in the Court appealed from, of the Court appealed from.

24. When the record has been made ready the Registrar shall certify the same and give notice to the parties of the certification of the record and append to the record a certificate showing the amount of expenses incurred by the party concerned for the preparation of the record.

25. Each party who has entered appearance shall be entitled to three copies of the record for his own use.

26. Subject to any special direction from the Court to the contrary, the costs of, and incidental to, the printing of the record shall form part of the costs of the appeal, but the costs of, and incidental to, the printing of any document objected by one party in accordance with rule 18 or rule 19, shall, if such document is found, on taxation of costs, to be unnecessary or irrelevant, be disallowed to, or borne by the party insisting on including the same in the record.

27. Where the record is directed to be prepared under the supervision of the Registrar of the Court appealed from, the provisions contained in rules 15 to 25 shall apply *mutatis mutandis* to the operation thereof.

Special Case

28. Where the decision of the appeal is likely to turn exclusively on a question of law, any party, with the sanction of the Registrar of the Court, may submit such question of law in the form of a special case, and the Registrar may call the parties before him, and having heard them and examined the record, may report to the Court as to the nature of the proceedings and the record that may be necessary for the discussion of the same. Upon perusing the said report, the Court may give such directions as to the preparation of the record and hearing of the appeal, including directions regarding the time within which or otherwise, the parties shall lodge their respective statements of case:

Provided that nothing herein contained shall in any way prevent this Court from ordering the full discussion of the whole case if the Court shall so think fit.

Withdrawal of Appeal

29. Where at any stage prior to the hearing of the appeal an appellant desires to withdraw his appeal, he shall present a petition to that effect to the Court. At the hearing of any such petition a respondent who has entered appearance may apply to the Court for his costs.

Non Prosecution of Appeals—Change of Parties

30. If an appellant fails to take any steps in the appeal within the time fixed for the same under these rules, or if no time is specified, it appears to the Registrar of the Court that he is not prosecuting the appeal with due diligence, the Registrar shall call upon him to explain his default and, if no explanation is offered, or if the explanation offered appears to the Registrar to be insufficient, the Registrar may issue a summons calling upon him to show cause before the Court why the appeal should not be dismissed for non-prosecution.

31. The Registrar shall send a copy of the summons mentioned in the last specified rule to every respondent who has entered appearance. The Court may,

after hearing the parties, dismiss the appeal for non-prosecution or give such other directions thereon as the justice of the case may require,

32. Where at any time between the filing of the petition of appeal and the hearing of the appeal the record becomes defective by reason of the death or change of status of a party to the appeal, or for any other reason, an application shall be made to the Court, stating who is the proper person to be substituted or entered on the record in place of, or in addition to the party on record.

33. Upon the filing of such an application the Registrar of the Court shall, after notice to the parties concerned, determine who in his opinion is the proper person to be substituted or entered on the record in place of, or in addition to the party on record, and the name of such person shall thereupon be substituted or entered on the record:

Provided that no such order of substitution or revivor shall be made by the Registrar—

- (i) where a question arises as to whether any person is or is not the legal representative of the deceased party, or
- (ii) where a question of setting aside the statement of the cause is involved; in such a case he shall place the matter before the Court for orders:

Provided further that where during the course of the proceedings it appears to the Registrar that it would be convenient for the enquiry that investigation in regard to the person who is to be substituted on record, be made by the court appealed from or a court subordinate thereto, the Registrar may place the matter before the Judge in Chambers and the Judge in Chambers may thereupon make an order directing the court appealed from to investigate into the matter either itself or cause an enquiry to be made by a Court subordinate to it, after notice to the parties, and submit its report thereon to this Court within such time as may be fixed by the Order. On receipt of the report from the Court below the matter shall be posted before the Judge in Chambers again for appropriate orders.

34. Save as aforesaid the provisions of Order XXII of the Code relating to abatement shall apply *mutatis mutandis* to appeals and proceedings before the Court.

35. (1) Within sixty days of the service on him of the notice of authentication of the record, the appellant shall lodge in the Court the statement of his case and serve a copy thereof on the respondent. The respondent shall lodge his case within thirty days thereafter.

(2) No party to an appeal shall be entitled to be heard by the Court unless he has previously lodged his case in the appeal:

Provided that where a respondent, who has entered appearance, does not desire to lodge a case in the appeal, he may give the Registrar of the Court notice in writing of his intention not to lodge any case while reserving his right to address the Court on the question of costs only.

36. (1) The statement of a case shall consist of two parts as follows:—

Part I shall consist of a concise statement of the facts of the case in proper sequence. A list of the dates of the relevant events leading up and concerning the litigation in chronological order and pedigree tables, wherever necessary, shall be given at the end of the part.

Part II shall set out the contentions of facts and law sought to be urged in support of the claim of the party lodging the case and the authorities in support thereof. Where authorities are cited, reference shall be given to the Official Reports, if available. Where text books are cited, the reference shall, if possible, be to the latest available editions. Where a statute, regulation, rule, ordinance or bye-law is cited or relied on, so much thereof as may be necessary to the decision of the case shall be set out. At the end of the part shall ordinarily be set out a table of cases cited.

(2) The case shall consist of paragraphs numbered consecutively. References shall be given by page and line to the relevant portions of the record in the margin and care shall be taken to avoid, as far as possible, the re-producing in the case of long extracts from the record. The case shall not travel beyond the limits of the certificate or the special leave, as the case may be, and of such additional grounds, if any, as the Court may allow to be urged on application made for the purpose. The Taxing Officer in taxing the costs of the appeal shall,

either of his own motion, or at the instance of the opposite party, enquire into any unnecessary prolixity in the case, and shall disallow the costs occasioned thereby.

37. Two or more respondents may, at their own risk as to costs, lodge separate cases in the same appeal.

38. A respondent who has not entered appearance shall not be entitled to receive any notice relating to the appeal from the Registrar of the Court, nor allowed to lodge a statement of case in the appeal.

39. The appeal shall be set down for hearing one month after the expiry of the time prescribed for lodging the statement of cases by the respondent. Where a respondent fails to lodge the statement of case within the time prescribed, the appeal shall, subject to the provision in the proviso to rule 1, be set down *ex-parte* against the respondent in default.

40. As soon as an appeal is set down for hearing, the appellant shall attend at the Registry and obtain eight copies of the record and cases to be bound in cloth or in one-fourth leather with paper sides, and six leaves of blank paper shall be inserted before the appellant's case. The front cover shall bear a printed label stating the title and Supreme Court Number of the Appeal, the contents of the Volume and the name and address of the advocates on record. The several documents, indicated by indicts, shall be arranged in the following order:—

- (1) Appellant's Case;
- (2) Respondent's Case;
- (3) Record (if in more than one Part, showing the separate Parts by indicts, all Parts being paged at the top of the page);
- (4) Supplemental Record (if any) and the short title and Supreme Court Number of Appeal shall also be shown on the back.

41. The appellant shall lodge the bound copies not less than ten clear days before the date fixed for the hearing of the Appeal.

ORDER XVI

APPEALS BY SPECIAL LEAVE

1. Where leave to appeal to the Court was refused in a case by the High Court, a petition for special leave to appeal to the Court shall, subject to the provisions of sections 4, 5, 12 and 14 of the Limitation Act, 1963 (36 of 1963) be lodged in the Court within sixty days from the date of the order of refusal and in any other case within ninety days from the date of the judgment or order sought to be appealed from:

Provided that where an application for leave to appeal to the High Court from the judgment of a single judge of that Court has been made and refused, in computing the period of limitation in that case under this rule, the period from the making of that application and the rejection thereof shall also be excluded.

Explanation:

For purposes of this rule the expression 'order of refusal' means the order refusing to grant the certificate referred under article 132 or article 133 of the Constitution on merits and shall not include an order rejecting the application on the ground of limitation or on the ground that such an application is not maintainable.

2. Where the period of limitation is claimed from the date of the refusal of a certificate under article 132 or article 133 of the Constitution, it shall not be necessary to file the order refusing the certificate, but the petition for special leave shall be accompanied by an affidavit stating the date of the judgment sought to be appealed from, the date on which the application for a certificate of fitness to appeal to the Court was made to the High Court, the date of the order refusing the certificate, and the ground or grounds on which the certificate was refused and in particular whether the application for the certificate was dismissed as being out of time.

3. Where an appeal lies to the Court on a certificate issued by the High Court, no application to the Court for special leave to appeal shall be entertained.

unless the High Court concerned has first been moved and it has refused to grant the certificate.

4. The petition shall state succinctly and clearly all such facts as may be necessary to enable the Court to determine whether special leave to appeal ought to be granted and shall be signed by the advocate on record for the petitioner unless the petitioner appears in person. The petition shall also state whether the petitioner has moved the High Court concerned for leave to appeal against its decision, and if so, with what result.

5. The petition shall be accompanied by—

(i) a certified copy of the judgment and order appealed from; and

(ii) an affidavit in support of the statement of facts contained in the petition.

6. No annexures to the petition shall be accepted unless such annexures are certified copies of documents which have formed part of the record of the case in the court sought to be appealed from; provided that uncertified copies of documents may be accepted as annexures if such copies are affirmed to be true copies upon affidavit.

7. The petitioner shall file at least seven spare sets of the petition and of the accompanying papers.

8. Where any person is sought to be impleaded in the petition as the legal representative of any party to the proceedings in the court below, the petition shall contain a prayer for bringing on record such person as the legal representative and shall be supported by an affidavit setting out the facts showing him to be the proper person to be entered on the record as such legal representative.

9. Where at any time between the filing of the petition for special leave to appeal and the hearing thereof the record becomes defective by reason of the death or change of status of a party to the appeal or for any other reason, an application shall be made to the Court stating who is the proper person to be substituted or entered on the record in place of or in addition to the party on record. Provisions contained in rule 33 of Order XV shall apply to the hearing of such applications.

10. (1) Unless a caveat as prescribed by rule 2 of Order XVIII has been lodged by the other parties who appeared in the court below, petitions for grant of special leave shall be put up for hearing *ex-parte*, but the Court, if it thinks fit, may direct issue of notice to the respondent and adjourn the hearing of the petition:

Provided that where a petition for special leave has been filed beyond the period of limitation prescribed therefor and is accompanied by an application for condonation of delay, the Court shall not condone the delay without notice to the respondent.

(2) A caveator shall not be entitled to costs of the petition, unless the Court otherwise orders.

Where a caveat has been lodged as aforesaid, notice of the hearing of the petition shall be given to the caveator; but a caveator shall not be entitled to costs of the petition, unless the Court otherwise orders.

11. On the grant of special leave, the petition for special leave shall, subject to the payment of additional court fee, if any, be treated as the petition of appeal and it shall be registered and numbered as such. The provisions contained in Order XV shall with necessary modifications and adaptations, be applicable to appeals by special leave and further steps in the appeal shall be taken in accordance with the provisions therefor.

ORDER XVII

PAUPER APPEALS AND APPLICATIONS

1. An application for leave to proceed as a pauper shall be made on a petition. It shall be accompanied by:

(a) a copy of the petition of appeal and the documents referred to in rule 3 of Order XV, or of the petition for special leave and the documents mentioned in rule 5 of Order XVI, as the case may be, and

- (b) an affidavit from the petitioner disclosing all the property to which he is entitled and the value thereof other than his necessary wearing apparel and his interest in the subject-matter of the intended appeal and stating that he is unable to provide security or surety for the cost of the respondent and pay court-fees.

2. The Register shall, be satisfying himself that the petition is in order, direct that the petition shall be filed and set down for hearing before the Chamber Judge on a date to be fixed for the purpose.

3. The application shall be posted before the Judge in Chambers who may himself inquire into the pauperism of the petitioner after notice to the other parties in the case and to the Attorney General, or make an order directing the High Court either by itself or by a court subordinate to the High Court, to investigate the pauperism after notice to the parties interested and submit a report thereon within such time as may be fixed by the order. On receipt of the report, the petition shall again be posted before the Judge in Chambers for further orders:

Provided that, if the applicant was allowed to sue or appeal as a pauper in the court from whose decree the appeal is preferred, no further inquiry in respect of his pauperism shall be necessary, unless this Court sees cause to direct such inquiry.

4. In granting or refusing leave to appeal as a pauper, the Court shall ordinarily follow the principles set out in sub-rule (2) of rule 1 of Order XLIV of the Code.

5. Where a petitioner obtains leave of the Court to appeal as a pauper he shall not be required to pay court-fees or to lodge security for the costs of the respondent.

6. The Judge in Chambers may assign an advocate on record to assist a pauper in the case, unless the pauper has made his own arrangement for his representation. Such assignment shall ordinarily be from a panel of advocates willing to assist paupers and chosen by the Judge in Chambers. It shall however be open to the Judge in Chambers in his discretion to assign an advocate outside the panel in any particular case.

7. (a) No fees shall be payable by a pauper to his advocate, nor shall any such fees be allowed on taxation against the other party except by an order of Court. The advocate may however receive from the pauper money for out of pocket expenses, if any, properly incurred in the case.

(b) It shall be open to the Court, if it thinks fit, to award costs against the adverse party or out of the property decreed to a pauper, and to direct payment of such costs to the advocate for the pauper.

(c) Save as aforesaid, no person shall take or agree to take or seek to obtain from a pauper any fee, profit or reward for the conduct of his case, and any person who takes, agrees to take or seeks to obtain, any such fee, profit or reward, shall be guilty of contempt of Court.

(d) Soon after a pauper appeal has been heard and disposed of, the advocate for the pauper shall file in the Registry a statement of account showing what monies, if any, were received by him in the case on any account from the pauper or from any person on his behalf and the expenditure incurred. If no monies had been received, a statement shall be filed to that effect. The Taxing Officer may, where he thinks it necessary, place the statement filed before the Judge in Chambers for his perusal and orders.

8. Where the appellant succeeds in the appeal, the Registrar shall calculate the amount of court-fees which would have been paid by the appellant if he had not been permitted to appeal as a pauper and incorporate it in the decree or order of the Court; such amount shall be recoverable by the Government of India from any party ordered by the Court to pay the same, and shall be the first charge on the subject matter of the appeal.

9. Where the appellant fails in the appeal or is dispaupered, the Court may order the appellant to pay the court-fees which would have been paid by him if he had not been permitted to appeal as a pauper.

10. The Central Government shall have the right at any time to apply to the Court to make an order for the payment of court-fees under rule 8 or rule 9.

11. All matters arising between the Central Government and any party to the appeal under the three preceding rules shall be deemed to be questions arising between the parties to the appeal.

12. In every pauper appeal the Registrar shall, after the disposal thereof, send to the Attorney General for India a memorandum of the court-fees payable by the pauper.

13. No appeal or other proceeding begun, carried on or defended by a pauper shall be compromised or discontinued without the leave of the Court.

ORDER XVIII

PETITIONS GENERALLY

1. Every petition shall consist of paragraphs numbered consecutively and shall be fairly and legibly written, type-written, lithographed or printed on one side of standard petition paper, demy fool-scape size, or on paper ordinarily used in High Courts for transcribing petitions, with quarter margin, and endorsed with the name of the court appealed from, the full title and Supreme Court number of the appeal or matter to which the petition relates and the name and address of the advocate on record of the petitioner or of the petitioner where the petitioner appears in person. The petitioner shall file along with his petition such number of copies thereof as may be required for the use of the Court.

2. Where a petition is expected to be lodged, or has been lodged, which does not relate to any pending appeal of which the record has been registered in the Registry of the Court, any person claiming a right to appear before the Court on the hearing of such petition may lodge a caveat in the matter thereof, and shall thereupon be entitled to receive from the Registrar notice of the lodging of the petition, if at the time of the lodging of the caveat such petition has not yet been lodged, and, if and when the petition has been lodged, to require the petitioner to serve him with copy of the petition and to furnish him, at his own expense, with copies of any papers lodged by the petitioner in support of his petition. The caveator shall forthwith, after lodging his caveat, give notice thereof to the petitioner, if the petition has been lodged.

3. Where a petition is lodged in the matter of any pending appeal of which the record has been registered in the Registry of the Court, the petitioner shall serve any party who has entered an appearance in the appeal, with a copy of such petition and the party so served shall thereupon be entitled to require the petitioner to furnish him at his own expense, with copies of any papers lodged by the petitioner in support of his petition.

4. A petition other than memorandum of appeal containing allegations of fact which cannot be verified by reference to the record in the Court shall be supported by an affidavit.

5. The Registrar may refuse to receive a petition other than a petition under article 32 of the Constitution on the ground that it discloses no reasonable cause or is frivolous, or contains scandalous matter but the petitioner may appeal, by way of motion, from such refusal to the Court.

6. As soon as all necessary documents are lodged, the petition shall be set down for hearing.

7. Subject to the provisions of rule 8, the Registrar shall, as soon as the Court has appointed a day for the hearing of a petition, notify the day appointed on the notice board of the Court.

8. Where the prayer of a petition is consented to in writing by the opposite party, or where a petition is of a formal and non-contentious character, the Court may, if it thinks fit, make an order thereon, without requiring the attendance of the parties, but the Registrar shall, with all convenient speed, after the Court has made its order, notify the parties that the order has been made and of the date and nature of such order.

9. A petitioner who desires to withdraw his petition shall give notice in writing to that effect to the Registrar. Where the petition is opposed the opponent shall, subject to any agreement between the parties to the contrary, be entitled to apply to the Court for his costs, but where the petition is unopposed, or where, in the case of an opposed petition, the parties have come to an agreement

as to the costs of the petition, the petition may, if the Court thinks fit, be disposed of in the same way *mutatis mutandis* as a consent petition under the provisions of rule 8.

10. Where a petitioner unduly delays the bringing of a petition to a hearing, the Registrar shall call upon him to explain the delay, and if no explanation is offered, or if the explanation offered is, in the opinion of the Registrar, insufficient, the Registrar may, after notifying all parties, who have entered appearance, place the petition before the Court for such directions as the Court may think fit to give thereon.

11. At the hearing of a petition not more than one advocate shall be heard on one side.

ORDER XIX

HEARING OF APPEALS

1. Subject to the directions of the Court, at the hearing of an appeal not more than two advocates shall be heard on one side.

2. No party shall, without the leave of the Court, rely at the hearing on any grounds not specified in the statement of the case filed by him.

3. Where the Court, after hearing an appeal, decides to reserve its judgment thereon, the Registrar shall notify the parties through their advocates on record of the day appointed by the Court for the delivery of the judgment.

4. (a) An appellant whose appeal has been dismissed for default of appearance may, within thirty days of the order, present a petition praying that the appeal may be restored and the Court may, after giving notice of such application to the respondent who has entered appearance in the appeal, restore the appeal if good and sufficient cause is shown, putting the appellant on terms as to costs or otherwise as it thinks fit, or pass such other order as the circumstances of the case and the ends of justice may require.

(b) Where an appeal is heard *ex-parte* and judgment is pronounced against the respondent, he may apply to the Court to re-hear the appeal, and if he satisfies the Court that the appeal was set down *ex-parte* against him without notice to him or that he was prevented by sufficient cause from appearing when the appeal was called on for hearing the Court may re-hear the appeal on such terms as to costs or otherwise as it thinks fit to impose upon him.

ORDER XX

MISCELLANEOUS

1. The filing of an appeal shall not prevent execution of the decree or order appealed against but the Court, may, subject to such terms and conditions as it may think fit to impose, order a stay of execution of the decree or order, or order a stay of proceedings, in any case under appeal to the Court.

2. A party to an appeal who appears in person shall furnish the Registrar with an address for service and all documents left at that address, or sent by registered post to that address, shall be deemed to have been duly served.

B—Criminal Appeals

ORDER XXI

SPECIAL LEAVE PETITIONS IN CRIMINAL PROCEEDINGS AND CRIMINAL APPEALS

Special Leave Petitions

1. (1) Where leave to appeal to the Court was refused in a case by the High Court, a petition for special leave to appeal shall, subject to the provisions of sections 4, 5, 12 and 14 of the Limitation Act, 1963 (36 of 1963), be lodged in the Court within sixty days from the date of order of refusal and in any other case within ninety days from the date of judgment or order sought to be appealed from:

Provided further that where an application for leave to appeal to the High Court from the judgment of a single judge of that court has been made and refused, in computing the period of limitation in that case under this rule, the

period from the making of that application and the rejection thereof shall also be excluded.

Explanation.—For purposes of this rule the expression 'order of refusal' means a order refusing to grant the certificate referred to in article 132 or article 134, as the case may be, of the Constitution on merits and shall not include an order rejecting the application on the ground of limitation or on the ground that such an application is not maintainable.

(2) Where the period of limitation is claimed from the date of refusal of a certificate, it shall not be necessary to file the order refusing a certificate, but the petition for special leave shall be accompanied by an affidavit stating the date of the judgment sought to be appealed from, the date on which the application for a certificate was made to the High Court, the date of the order refusing the certificate and the ground or grounds on which the certificate was refused and in particular whether the application for a certificate was dismissed as being out of time.

2. Where an appeal lies to the Court on a certificate issued by the High Court no application to the Court for special leave to appeal shall be entertained unless the High Court concerned has first been moved and it has refused to grant the certificate.

3. The petition shall state succinctly and clearly all such facts as may be necessary to enable the Court to determine whether special leave to appeal ought to be granted and shall be signed by the advocate on record for the petitioner unless the petitioner appears in person. The petition shall also state whether the petitioner has moved the High Court concerned for leave to appeal against its decision, and if so, with what result.

4. The petition shall be accompanied by:

(1) a certified copy of the judgment and order appealed from; and

(2) an affidavit in support of the statement of facts contained in the petition.

5. (1) No annexures to the petition shall be accepted unless such annexures are certified copies of documents which have formed part of the record in the court or tribunal sought to be appealed from, provided that uncertified copies of documents may be accepted as annexures if such copies are affirmed to be true copies upon affidavit.

(2) The High Court or the tribunal concerned shall, on application by a petitioner intending to apply for special leave, grant him free of cost a certified copy of the judgment or order sought to be appealed from.

6. Where the petitioner has been sentenced to a term of imprisonment, the petition shall state whether the petitioner has surrendered. Where the petitioner has not surrendered to the sentence, the petition shall not be posted for hearing unless the Court, on a written application for the purpose, orders to the contrary. Where the petition is accompanied by such an application the application and the petition shall be posted together before the Court.

7. Unless a caveat as prescribed by rule 2 of Order XVIII has been lodged by the other parties who appeared in the court below, petitions for grant of special leave shall be put up for hearing *ex-parte*, but the Court, if it thinks fit, may direct issue of notice to the respondent and adjourn the hearing of the petition.

8. (1) If the petitioner is in jail and is not represented by an advocate on record he may present his petition for special leave to appeal together with the certified copy of the judgment and any written argument which he may desire to advance to the officer-in-charge of the jail, who shall forthwith forward the same to the Registrar of this Court. Upon receipt of the said petition, the Registrar the Court shall, whenever necessary call, from the proper officer of the court or the tribunal appealed from, the relevant documents for determination of the petition for special leave to appeal.

(2) As soon as all necessary documents are available the Registrar shall, where the petitioner has been sentenced to death, assign a counsel from a panel of *amicus curiae* and thereafter place the petition and complete documents for hearing before the Court. The fee of the counsel so assigned shall be one hundred rupees or such reasonable fee as may be fixed by the Court hearing the petition.

9. On the granting of the special leave, the petition for special leave shall be treated as the petition of appeal and shall be registered and numbered as such.

10. Upon an order being made granting special leave to appeal, the Registrar shall transmit to the court appealed from, a certified copy of the order together with a certified copy of the petition for special leave, and the affidavit, if any, filed in support thereof.

11. On receipt of the said order, the court appealed from shall give notice of the order to the respondent and require the parties to take all necessary steps to have the record of the case transmitted to the Court in accordance with the directions contained in the order granting special leave. The Registrar of the court appealed from shall certify to the Registrar of the Court that the respondent has received notice of the order of the Court granting special leave to appeal.

Criminal Appeals

12. Every criminal appeal under article 132(1)(c) of the Constitution shall be lodged in the Court within sixty days from the date of the certificate granted by the High Court, and every appeal under article 134(1)(a) and (b) of the Constitution or under any other provision of law within sixty days from the date of the judgment, final order or sentence appealed from:

Provided that in computing the period, the time requisite for obtaining a copy of the judgment or order appealed from, and, where the appeal is on a certificate, of the certificate, shall be excluded:

Provided further that the Court may, for sufficient cause shown, extend the time.

13. (1) The memorandum of appeal shall be in the form of a petition. It shall state succinctly and briefly, and as far as possible, in chronological order, the principal steps in the proceedings from its commencement till its conclusion in the High Court.

(2) Where the appeal lies to the Court as of right, the petition shall be accompanied by a certified copy of the judgment appealed from.

(3) Where the appeal is preferred by a certificate granted by the High Court it shall not be necessary to file along with the petition of appeal a certified copy of the judgment appealed from or of the certificate of fitness granted by the High Court; but in such case the petition shall be supported by an affidavit stating the date on which the application for certificate was made to the High Court and the date of the order granting the said certificate and the provision of law under which the said certificate is granted.

14. Where the appellant is in jail, he may present his petition of appeal and the documents mentioned in rule 13 including any written argument which he may desire to advance to the officer-in-charge of the jail, who shall forthwith forward the same to the Registrar of the Court.

15. The petition of appeal shall be registered and numbered as soon as it is lodged. On the registration of the appeal, the Registrar shall send a copy of the petition of appeal and the accompanying papers, if any, to the High Court or the tribunal concerned, and shall cause notice of the appeal to be given, where the appeal is by a convicted person, to the Attorney General for India or to the Advocate-General or the Government Advocate of the State concerned, or to both as the case may require, and, in cases where the appeal is by the Government, to the accused, and shall also furnish the Attorney-General for India or the Advocate-General or the Government Advocate of the State concerned as the case may be, with a copy of the petition of appeal and the accompanying papers, if any.

16. The respondent may enter appearance in the Court within thirty days of the notice of lodgment of the petition of appeal on him.

Preparation of the Record

17. The record of the appeal shall be printed in accordance with the rules contained in the First Schedule to these rules. It may be printed either under the supervision of the Registrar of this Court, or under the supervision of the Registrar of the Court appealed from. The record shall be printed at the expense of the appellant unless otherwise ordered by the Court. In appeals involving

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sentence of death and in such other cases in which the Court thinks fit to so direct the record shall be printed at the expense of the State concerned.

18. (1) In the preparation of the record, the provisions contained in Order XV relating to the preparation of the record in Civil Appeals shall, with necessary modifications and adaptations, apply to Criminal Appeals.

(2) In all cases where a sufficient number of copies of the printed record of the court appealed from are available, they shall be despatched to the Court along with such additional records as may be necessary, as soon as these are printed, and where the record is to be printed afresh for the Supreme Court appeal the printed record shall be made ready and despatched to the Court within a period of sixty days after the receipt of the intimation from the Registrar of the Court of the filing of the petition of appeal, or of the order granting special leave to appeal.

19. Where the appellant fails to take necessary steps to have the printed record prepared and transmitted to the Court with due diligence, the Registrar of the court appealed from shall report the default to the Registrar of the Court, and the Registrar of the Court may thereupon issue a summons to the appellant calling upon him to show cause before the Court a time to be specified in the summons why the appeal should not be dismissed. The Court may thereupon dismiss the appeal for non-prosecution or pass such orders as the justice of the case may require.

20. Where an appeal has been dismissed for non-prosecution, the appellant may, within thirty days of the order, present a petition praying that the appeal may be restored and the Court may, after giving notice of the application to the respondent, if he has entered appearance, restore the appeal if good and sufficient cause is shown.

21. (1) As soon as the record has been got ready, the Registrar of the court appealed from shall despatch to the Registrar of the Court not less than fifteen copies where the appeal raises a question as to the interpretation of the Constitution, and not less than 10 copies in other cases.

(2) In all cases involving a sentence of death, where a sufficient number of copies of the printed record of the court appealed from are available, they shall be despatched to this Court along with such additional records as may be necessary, as soon as these are printed, and where the record is to be printed afresh for the Supreme Court appeal the printed record shall be made ready and despatched to the Court within a period of sixty days after the receipt of the intimation from the Registrar of the Court of the filing of the petition of appeal, or of the order granting special leave to appeal.

22. As soon as the record is ready the Registrar concerned shall give notice thereof to the parties to the appeal, and where the record is prepared under the supervision of the Registrar of the Court appealed from the said Registrar shall, after service of the notice, send to the Registrar of this Court a certificate as to the date or dates on which the notice has been served.

Hearing of the Appeal

23. Each party who has entered appearance shall be entitled to two copies of the record for his own use.

24. Unless otherwise ordered by the Court the appeal shall be set down for hearing thirty days after the expiry of the time prescribed for entering appearance by the respondent.

25. Where the accused person is not represented by an Advocate on Record of his choice the Court may, in a proper case, direct the engagement of an Advocate at the cost of Government. The fee of the Advocate so engaged shall be two hundred and fifty rupees for the first day of the hearing, with a refresher, where the hearing has lasted for more than 4½ hours, of one hundred and twenty-five rupees for each additional day of the hearing, or such reasonable fee as may be fixed by the Court hearing the appeal.

26. (1) Due notice shall be given to the accused, where he is not represented, of the date fixed for the hearing of the appeal. The accused person may, if he so wishes, present his Case by submitting his argument in writing and the same shall be considered at the hearing of the appeal.

(2) It shall not be necessary for an accused person in custody to be produced before the Court at the hearing unless the Court thinks fit in the interest of justice to direct him to be produced to enable him to argue his case or for other reasons.

27. Pending the disposal of any appeal under these rules, the Court may order that the execution of the sentence or order appealed against be stayed on such terms as the Court may think fit.

28. After the appeal has been disposed of, the Registrar shall, with the utmost expedition, send a copy of the Court's judgment or order to the High Court or tribunal concerned.

29. In criminal proceedings, no security for costs shall be required to be deposited, and no court-fee, process fee, or search fee shall be charged, and an accused person shall not be required to pay copying charges except for copies other than the first.

PART III—Original Jurisdiction

ORDER XXII

PARTIES TO SUITS

1. Two or more plaintiffs may join in one suit in whom any right to relief in respect of or arising out of the same act or transaction or series of acts or transactions is alleged to exist.

2. Two or more defendants may be joined in one suit against whom any right to relief in respect of or arising out of the same act or transaction or series of acts or transactions is alleged to exist.

3. (1) The Court may at any such stage of the proceedings, either upon or without the application of either party, and on such terms as may appear to the Court to be just, order that the name of any plaintiff or defendant improperly joined be struck out, and that the name of any plaintiff or defendant who ought to have been joined, or whose presence before the Court may be necessary in order to enable the Court effectually and completely to adjudicate upon and settle all the questions involved in the suit, be added.

(2) No person shall be added as a plaintiff without his consent.

4. Where it appears to the Court that any causes of action joined in one suit cannot conveniently be tried or disposed of together the Court may order separate trials or make such other order as may be expedient.

5. Where it appears to the Court that any joinder of plaintiffs or defendants may embarrass or delay the trial of the suit, the Court may order separate trials or make such order as may be expedient.

ORDER XXIII

PLAINTS

1. Every suit shall be instituted by the presentation of a plaint.

2. A plaint shall be presented to the Registrar, and all plaints shall be registered and numbered by him according to the order in which they are presented.

3. Every plaint shall comply with the rules contained in Order XXVI of these rules so far as they are applicable.

4. A plaint shall contain the following particulars:—

(a) the names of the plaintiff and of the defendant;

(b) the facts constituting the cause of action and when it arose;

(c) the facts showing that the Court has jurisdiction;

(d) the declaration or relief which the plaintiff claims.

5. The plaintiff shall endorse on the plaint, or annex thereto, a list of the documents (if any) which he has produced along with it and the Registrar shall sign the list if on examination he finds it to be correct.

6. The plaint shall be rejected:—

(a) where it does not disclose a cause of action;

(b) where the suit appears from the statement in the plaint to be barred by any law.

7. Where a plaint is rejected the Court shall record an order to that effect with the reasons for the order.

8. The rejection of the plaint shall not of itself preclude the plaintiff from presenting a fresh plaint in respect of the same cause of action.

9. Where a plaintiff sues upon a document in his possession or power, he shall produce it to the Registrar when the plaint is presented and shall at the same time deliver the document or a copy thereof to be filed with the plaint.

10. Where the plaintiff relies on any other documents (whether in his possession or power or not) as evidence in support of his claim, he shall enter such documents in a list to be added or annexed to the plaint.

11. Where any such document is not in the possession or power of the plaintiff, he shall, if possible, state in whose possession or power it is.

12. A document which ought to be produced in Court by the plaintiff when the plaint is presented or to be entered in the list to be added or annexed to the plaint, and which is not produced or entered accordingly, shall not, without the leave of the Court, be received in evidence at the hearing of the suit.

ORDER XXIV

ISSUE AND SERVICE OF SUMMONS

1. When a suit has been duly instituted a summons shall be issued to the defendant to appear and answer the claim.

2. Every summons shall be signed by the Registrar, and shall be sealed with the seal of the Court.

3. Every summons shall be accompanied by a copy of the plaint.

4. The summons shall be served by being sent by registered post to the Attorney General for India or the Advocate-General for the State, as the case may be, or to an advocate on record of the defendant empowered to accept service.

5. There shall be endorsed on every summons a notice requiring the defendant to enter an appearance within twenty-eight days after the summons has been served.

6. A defendant shall enter the appearance by filing in the Registry a memorandum in writing containing the name and place of business of his advocate on record, if any, and in default of appearance being entered within the time mentioned in the summons, or as hereinafter provided, the suit may be heard *ex-parte*.

7. The defendant shall forthwith give notice of his having entered an appearance to the plaintiff.

8. The plaintiff shall within fourteen days after the defendant has entered an appearance take out a summons for directions returnable before the Judge in Chambers, and the Judge shall on the hearing of the summons give such directions with respect to pleadings, interrogatories, the admission of documents and facts, the discovery, inspection and production of documents and such other interlocutory matters as he may think expedient.

ORDER XXV

WRITTEN STATEMENT, SET-OFF AND COUNTER-CLAIM

1. It shall not be sufficient for a defendant in his written statement to deny generally the facts alleged by the plaintiff but he shall deal specifically with each allegation of fact of which he does not admit the truth, except damage.

2. Where a defendant denies an allegation of fact he shall not do so evasively but shall answer the point of substance.

3. Every allegation of fact in the plaint, if not denied specifically or by necessary implication, is not expressly stated to be not admitted in the pleading of the plaintiff shall be taken to be admitted, but the Court may in its discretion require any fact so admitted to be proved otherwise than by such admission.

4. Where the defendant claims to set-off against a demand by the plaintiff any ascertained sum of money, he may in his written statement, but not afterwards without the leave of the Court, states the grounds of his claim and the particulars of the debt sought to be set off.

5. The written statement containing the particulars mentioned in rule 4 of this Order shall have the same effect as a plaint in a cross-suit so as to enable the Court to pronounce a final judgment in respect both of the original claim and of the set-off.

6. The rules relating to a written statement by a defendant shall apply to a written statement by a plaintiff in answer to a claim of set-off.

7. No pleading subsequent to the written statement of a defendant other than by way of defence to a set-off shall be presented except by the leave of the Court and upon such terms as the Court may think fit, but the Court may at any time require a written statement or additional written statement from any of the parties and may fix a time for presenting the same.

8. Where any party from whom a written statement is so required fails to present the same within the time fixed by the Court, the Court may pronounce judgment against him, or make such orders in relation to the suit as it thinks fit.

9. The defendant, in addition to his right of pleading a set-off, may set up by way of counter-claim against the claim of the plaintiff any right or claim in respect of a cause of action accruing to him either before or after the filing of the suit but before he has delivered his defence and before the time limited for delivering his defence has expired, whether that counter-claim sounds in damages or not, and the counter-claim shall have the same effect as a cross-suit, so as to enable the Court to pronounce a final judgment in the same suit, both on the original claim and on the counter-claim.

10. The Court may if in its opinion the counter-claim cannot be disposed of in the pending suit or ought not to be allowed, refuse permission to the defendant to avail himself thereof, and require him to file a separate suit.

ORDER XXVI.

PLEADINGS GENERALLY

1. In this Order 'pleading' means plaint or written statement.

2. Every pleading shall contain, and contain only, a statement in a concise form of the material facts on which the party pleading relies, but not the evidence by which those facts are to be proved, nor any argumentative matter, and shall be divided into paragraphs numbered consecutively.

3. Dates, sums and numbers shall be expressed in figures.

4. A further and better statement of the nature of the claim or defence, or further and better particulars of any matter stated in any pleading may in all cases be ordered, upon such terms as to costs and otherwise, as may be just.

5. Whether the contents of any document are material, it shall be sufficient to state the effect thereof as briefly as possible, without setting out the whole or any part thereof, unless the precise words of the document or any part thereof are material.

6. Every pleading shall be signed by, or by an advocate on record on behalf of the Attorney General of India, or by an Advocate on record on behalf of the Advocate-General for the State, as the case may be.

7. The Court may at any stage of the proceedings order to be struck out or amended any matter in any pleading which may be unnecessary or scandalous or which may tend to prejudice or embarrass or delay the trial of the suit, or which contravenes any of the provisions of this Order.

8. The Court may at any stage of the proceedings allow either party to amend his pleadings in such manner and on such terms as may be just, but only such amendments shall be made as may be necessary for the purpose of determining the real question in controversy between the parties.

9. If a party who has obtained an order for leave to amend does not amend accordingly within the time limited for that purpose by the order, or if no time is thereby limited then within fourteen days from the date of the order, he shall not be permitted to amend after the expiration of such limited time or of such fourteen days, as the case may be, unless the time is extended by the Court.

10. Amendments of pleadings made only for the purpose of rectifying a clerical error may be made on an order of the Registrar without notice, but unless otherwise ordered a copy of the order shall be served on all other parties.

ORDER XXVII

DISCOVERY AND INSPECTION

1. Order XI of the First Schedule to the Code except rules 5 and 23 of that order, shall apply with respect to discovery and inspection in suits instituted before the Court.

2. Where the Court has made an order allowing one party to deliver interrogatories to the other, those interrogatories shall be answered by such persons as the Court may direct.

3. No application for leave to deliver interrogatories shall be made by the defendant until after he has filed his written statement.

4. After an order has been made for the delivery of interrogatories one set of the interrogatories, as allowed, shall be annexed and served with the order upon the person to be interrogated.

5. The Court may, for sufficient reason, allow any affidavit to be sworn, on behalf of the party from whom discovery, production or inspection is sought, by any person competent to make the same.

6. Where any document is ordered to be deposited in Court a copy of the order and a schedule of the document shall be left in the Registry at the time when the deposit is made.

7. When the purpose for which any documents have been deposited in Court is satisfied, the party by whom they were deposited may, pending the suit, have them delivered out to him, if he has the consent in writing of the other party, or an order of the Court.

ORDER XXVIII

ADMISSIONS

Order XII in the First Schedule to the Code with respect to admissions shall apply in suits instituted before the Court.

ORDER XXIX.

SUMMONING AND ATTENDANCE OF WITNESSES.

1. The provisions of sections 28 and 32 of the Code shall apply to summons to give evidence or to produce documents under these rules.

2. Order XVI in the First Schedule to the Code with respect to the summoning and attendance of witnesses shall apply, with the exception of the proviso to sub-rule (3) of rule 10, and the words '(a) within the local limits of the Court's ordinary original jurisdiction, or (b) without such limits but' in rule 19.

ORDER XXX.

ADJOURNMENTS

In suits instituted before the Court Order XVII in the First Schedule to the Code with respect to adjournments shall, apply with the substitution in rule 2 of the words in such manner as it thinks just for the words 'in one of the modes directed in that behalf by Order IX, or make such other order as it thinks fit.

ORDER XXXI

HEARING OF THE SUIT

1. Rules, 1, 2, 3, 16, 17 and 18 of Order XVIII in the First Schedule to the Code with respect to the hearing of suits and examination of witnesses shall apply in suits instituted before the Court.

2. Witnesses in attendance shall be examined orally in open Court and their evidence taken down in shorthand in the form of question and answer by such officers of the Court as may be appointed for the purpose.

3. The transcript of the shorthand note shall be signed by the officer recording the note and shall be deemed the deposition of the witness and shall form part of the record.

4. The party to any suit or matter in which the evidence has been taken in shorthand, and the witness whose evidence has been taken, shall be entitled upon payment of the prescribed fee to be furnished with a certified copy of the transcript.

ORDER XXXII

WITHDRAWAL AND ADJUSTMENT OF SUITS

1. Rules 1, 2 and 3 of Order XXIII in the First Schedule to the Code with respect to the withdrawal and adjustment of suits shall apply in suits instituted before the Court.

2. No new suit shall be brought in respect of the same subject-matter until the terms or conditions, if any, imposed by the order permitting the withdrawal of a previous suit or giving leave to bring a new suit have been complied with.

ORDER XXXIII

PAYMENT INTO COURT

Order XXIV in the First Schedule to the Code with respect to payment into Court shall apply in suits instituted before the Court.

ORDER XXXIV

SPECIAL CASE.

Rules 1, 3 and 5 of Order XXXVI in the First Schedule to the Code with respect to procedure by way of special case shall apply in suits instituted before the Court, except the words—'which would have jurisdiction to entertain a suit the amount or value of the subject-matter of which is the same as the amount or value of the subject-matter of the agreement' in sub-rule (1) of rule 3, the words 'claiming to be interested as plaintiff or plaintiffs' to the end of sub-rule (2) of rule 3; and the words 'and upon the judgment so pronounced a decree shall follow' in sub-rule (2) of rule 5.

PART IV

ORDER XXXV

APPLICATIONS FOR ENFORCEMENT OF FUNDAMENTAL RIGHTS

(Article 32 of the Constitution)

1. (1) Every petition under Article 32 of the Constitution shall be in writing and shall be heard by a Division Court of not less than five Judges provided that a petition which does not raise a substantial question of law as to the interpretation of the Constitution may be heard and decided by a Division Court of less than five Judges, and, during vacation, by the Vacation Judge sitting singly.

(2) All interlocutory and miscellaneous applications connected with a petition under article 32 of the Constitution, may be heard and decided by a Division Court of less than five Judges, and during the vacation, by the Vacation Judge sitting singly, notwithstanding that in the petition a substantial question of law as to the interpretation of the Constitution is raised.

2. No court-fees shall be payable on petitions for *habeas corpus* or other petitions under Article 32 of the Constitution arising out of criminal proceedings, or in proceedings connected with such petitions.

Habeas Corpus

3. A petition for a writ of *habeas corpus* shall be accompanied by an affidavit by the person restrained stating that the petition is made at his instance and setting out the nature and circumstances of the restraint;

Provided that where the person restrained is unable owing to the restraint to make the affidavit, the petition shall be accompanied by an affidavit to the like effect made by some other person acquainted with the facts, which shall state the reason why the person restrained is unable to make the affidavit.

The petition shall state whether the petitioner has moved the High Court concerned for similar relief and if so, with what result.

4. The petition shall be posted before the Court for preliminary hearing, and if the Court is of the opinion that a *prima facie* case for granting the petition is made out, a *rule nisi* shall issue calling upon the person or persons against whom the order is sought, to appear on a day to be named therein to show cause why such order should not be made and at the same time to produce in Court the body of the person or persons alleged to be illegally or improperly detained then and there to be dealt with according to law.

5. On the return day of such rule or any day to which the hearing thereof may be adjourned, if no cause is shown or if cause is shown and disallowed, the Court shall pass an order that the person or persons improperly detained shall be set at liberty. If cause is shown and allowed, the rule shall be discharged. The order for release made by the Court, shall be a sufficient warrant to any gaoler, public official, or other person for the release of the person under restraint.

6. In disposing of any such rule, the Court may in its discretion make such order for costs as it may consider just.

Mandamus, Prohibition, Certiorari Quo-Warranto and other Directions or Orders.

7. A petition for a direction, or order, or writ including writs in the nature of *mandamus, prohibition, quo-warranto* or *certiorari*, shall set out the name and description of the petitioner, the nature of the fundamental right infringed, the relief sought and the grounds on which it is sought and shall be accompanied by an affidavit verifying the facts relied on, and at least six copies of the petition and affidavit shall be lodged in the Registry. The petition shall also state whether the petitioner has moved the High Court concerned for similar relief and, if so, with what result.

8. The petition shall be posted before the Court for preliminary hearing and orders as to the issue of notice to the respondent. Upon the hearing, the Court, if satisfied that no fundamental right guaranteed by the Constitution has been infringed, or that the petition is otherwise untenable, shall dismiss the petition, and if not so satisfied, shall direct a *rule nisi* to issue to the respondent calling upon him to show cause why the order sought should not be made, and shall adjourn the hearing for the respondent to appear and be heard.

9. Upon making the order for a *rule nisi*, the Court may, if it thinks fit, grant such *ad interim* relief to the petitioner as the justice of the case may require, upon such terms if any as it may consider just and proper.

10. (1) Unless the Court otherwise orders, the *rule nisi* together with a copy of the petition and of the affidavit in support thereof shall be served on the respondent not less than twentyone days before the date fixed for the hearing of the rule. The rule shall be served on all persons directly affected and on such other persons as the Court may direct.

Affidavits in opposition shall be filed in the Registry not later than four days before the date appointed for the hearing, and affidavits in reply shall be filed not later than 2 P.M. on the day preceding the day of hearing. Copies of affidavits in opposition or reply shall be served on the opposite party or parties, and the affidavits shall not be accepted in the Registry unless they contain an endorsement of service signed by such party or parties. Every party to the proceeding shall supply to any other party on demand and on payment of the proper charges, copies of any affidavit filed by him.

(2) At the hearing of *rule nisi*, if the Court is of the opinion that an opportunity be given to the parties to establish their respective cases by leading further evidence, the Court may take such evidence or cause such evidence to be taken in such manner as it may deem fit and proper.

11. The provisions contained in rules 1 to 4 and 6 to 10 respectively of Order XVIII relating to petitions shall, so far as may be applicable, apply to petitions under this Order.

ORDER XXXVI

APPLICATIONS FOR TRANSFER OF CRIMINAL PROCEEDINGS UNDER SECTION 527 OF THE CRIMINAL PROCEDURE CODE

1. Every petition for transfer under section 527 of the Code of Criminal Procedure 1898 shall be in writing. It shall set out concisely in separate paragraphs the facts and particulars of the case, the relief sought and the grounds therefor and shall be supported by an affidavit or affirmation.

2. The petition shall be posted before the Court for preliminary hearing and orders as to issue of notice. Upon the hearing the Court, if satisfied that no *prima facie* case for transfer has been made out or that the petition is otherwise not tenable, shall dismiss the petition; and if upon such hearing the Court is satisfied that a *prima facie* case for granting the petition is made out, it shall direct that notice be issued to the respondent to show cause why the order sought for should not be made; such notice shall be given to the Attorney General for India, the Advocate General of the State in which the case or appeal sought to be transferred is pending, to the accused person where he is not the applicant and to such other parties interested as the Court may think fit to direct.

3. The notice shall be served not less than twentyone days before the date fixed for the final hearing of the petition. Affidavits in opposition shall be filed in the Registry not later than four days before the date appointed for hearing and the affidavit in reply shall be filed not later than 2 P.M. preceding the day of the hearing of the petition. Copies of affidavits in opposition and in reply shall be served on the opposite party or parties and the affidavits shall not be accepted in the Registry unless they contain an endorsement of service signed by such party or parties.

4. Where the petition is dismissed the Court, if it is of opinion that the application was frivolous or vexacious, may order the applicant to pay by way of compensation to any person who has opposed the application such sum not exceeding one thousand rupees as it may consider proper in the circumstances of the case.

PART V.

ORDER XXXVII

SPECIAL REFERENCE UNDER ARTICLE 143 OF THE CONSTITUTION

1. On the receipt by the Registrar of the order of the president referring a question of law or fact to the Court under article 143 of the Constitution the Registrar shall give notice to the Attorney General for India to appear before the Court on a day specified in the notice to take the directions of the Court as to the parties who shall be served with notice of such reference, and the Court may, if it considers it desirable, order that notice of such reference, shall be served upon such parties as may be named in the order.

2. Subject to the directions of the Court the notice shall require all such parties served therewith as desire to be heard at the hearing of the reference to attend before the Court on the day fixed by the order to take the directions of the Court with respect to statements of facts and arguments and with respect, to the date of the hearing.

3. Subject to the provisions of this Order, on a reference under article 143 of the Constitution, the Court shall follow as nearly as may be the same procedure as is followed in proceedings before the Court in the exercise of its original jurisdiction, but with such variations as may appear to the Court to be appropriate and as the Court may direct.

4. After the hearing of the reference under article 143 of the Constitution the Registrar shall transmit to the President the report of the Court thereon.

5. The Court may make such order as it thinks fit as to the costs of all parties served with notice under these rules and appearing at the hearing of the reference under article 143 of the Constitution.

PART VI

ORDER XXXVIII

REFERENCE UNDER ARTICLE 317(1) OF THE CONSTITUTION

1. On receipt by the Registrar of the order of the President referring to the court a case for inquiry under article 317(1) of the Constitution, the Registrar shall give notice to the Chairman or member of the Public Service Commission concerned and to the Attorney General for India or the Advocate-General of the particular State to appear before the Court on a day specified in the notice to take the directions of the Court in the matter of the inquiry. A copy of the charges preferred against him shall be furnished to the respondent along with the notice.

2. The Court may summon such witnesses as it considers necessary.

3. After the hearing of the reference under article 317(1) of the Constitution, the Registrar shall transmit to the President the Report of the Court.

4. No court-fees or process fees shall be payable in connection with any reference dealt with by the Court under this Order.

PART VII

ORDER XXXIX

ELECTION PETITIONS UNDER PART III OF THE PRESIDENTIAL AND VICE-PRESIDENTIAL ELECTIONS ACT, 1952 (31 OF 1952)

1. In this Order, unless the context or subject matter otherwise requires:—

(a) 'the Act' means the Presidential and Vice-Presidential Elections Act, 1952;

(b) the words defined in sections 2 and 13 of the Act shall have the respective meanings assigned to them by those sections.

2. An application calling in question an election shall only be by a petition made and presented in accordance with the provisions of this Order.

3. The petition shall be made on a court fee stamp of the value of rupees two hundred and fifty and shall be signed by the petitioner, or all the petitioners, if there are more than one, or by a duly authorised advocate on record of the Court, on his or their behalf.

4. The petition shall be divided into paragraphs, numbered consecutively, each paragraph being confined to a distinct portion of the subject, and shall be printed or typed legibly on one side of standard petition-paper, demy-foolscap size, or on paper of equally superior quality.

5. The petition shall state the right of the petitioner under the Act to petition the Court and briefly set forth the facts and grounds relied on by him to sustain the relief or reliefs claimed by him.

6. The allegations of fact contained in the petition shall be verified by an affidavit to be made personally by the petitioner or by one of the petitioners, if more than one:

Provided that where the petitioner is unable to make such affidavit by reason of absence, illness or other sufficient cause it may with the sanction of the Judge in Chambers to be given at the time of the presentation of the petition, be made by any person duly authorised by the petitioner and competent to make the same.

7. A petition calling in question an election may be presented on one or more of the grounds specified in sub-section (1) of section 18 and section 19 of the Act, by any candidate at such election, or by ten or more electors who may join together as petitioners.

8. Where the petitioner claims a declaration under clause (a) of section 18 of the Act, he shall implead the returned candidate as the respondent, and where

he claims a declaration under clause (b) of the said section, he shall implead as respondents all candidates, other than himself, duly nominated at the election.

9. The petition may be presented at any time after the date of publication of the declaration containing the name of the returned candidate at the election under section 12 of the Act, but not later than thirty days from the date of such publication.

10. The presentation of the petition shall be made by delivering it to the Registrar of the Court in his Chambers in the Court House, unless it is presented before the Judge in Chambers under rule 6.

11. The petitioner shall also lodge, along with the petition, at least twelve copies of the petition and of all documents which accompany it.

12. Upon the presentation of the petition, the petitioner, shall deposit a sum of two thousand rupees in cash with the Registrar or Deputy Registrar of the Court as security for the payment of all costs that may become payable by the petitioner.

13. Upon the presentation of the petition, the Judge in Chambers, or the Registrar, before whom it is presented, may give such directions for service of the petition and advertisement thereof as he thinks proper and also appoint a time for the hearing of the petition.

14. Unless otherwise ordered, the notice of the presentation of the petition, accompanied by a copy of the petition, shall within five days of the presentation thereof or within such further time as the Court may allow, be served by the petitioner or his advocate on record on the respondent or respondents, the Secretary to the Election Commission, the Returning Officer and the Attorney General for India. Such service shall be effected personally or by registered post, as the Court or Registrar may direct. Immediately after such service the petitioner or his advocate on record shall file with the Registrar an affidavit of the time and manner of such service.

15. Unless dispensed with by the Judge in Chambers or the Registrar, as the case may be, notice of the presentation of the petition shall be published in the Official Gazette and also advertised in newspapers at the expense of the petitioner or petitioners, fourteen clear days before the date appointed for the hearing thereof in such manner as the Court or the Registrar may direct.

16. Every elector shall on payment of the usual fees, be entitled, within twenty-four hours after such payment, to be furnished by the petitioner or his advocate on record with a copy of the petition and of the affidavit in verification thereof and shall also be entitled upon payment of the prescribed fees to obtain copies from the Court.

17. A person on whom the notice of the presentation of the petition has been served or any other candidate or an elector who intends to appear on the hearing of the petition shall leave with, or send by registered post to, the petitioner or his advocate on record, notice of such intention signed by him or his advocate on record, if any. Such notice shall be served or if sent by registered post, shall be posted in time to reach the addressee not later than two clear days before the day appointed for the hearing of the petition. No person who has failed to comply with this rule shall be allowed to appear on the hearing of the petition without the leave of the Court.

18. An affidavit intended to be used by a person other than the petitioner either in support of the petition or in opposition to the same shall be filed not less than five days before the date fixed for the hearing thereof and notice of the filing thereof shall be given to the petitioner or his advocate on record on the day on which the affidavit is filed. If any person fails to comply with this rule the affidavit, unless the Court otherwise directs, shall not be used at the hearing of the petition.

19. An affidavit intended to be used in reply to an affidavit filed in opposition to, or in support of, the petition shall be filed not less than two days before the date fixed for the hearing of the petition. Notice of such filing shall be given forthwith to the person by whom the affidavit in opposition to, or in support of, the petition, as the case may be, was filed or to his advocate on record.

20. Every petition calling in question an election shall be posted before and be heard and disposed of by a Bench of the Court consisting of not less than five Judges.

21. The petition shall not be withdrawn, save with the leave of the Court to be obtained upon application made for the purpose by notice of motion.

22. Where there are more petitioners than one, no application to withdraw a petition shall be made except with the consent of all the petitioners given in writing.

23. An application for leave to withdraw a petition which has been advertised in accordance with the provisions of rule 15 shall not be heard at any time before the date fixed in the advertisement for the hearing of the petition.

24. No application for withdrawal shall be granted if in the opinion of the Court such application has been induced by any extraneous or improper bargain or consideration.

25. When a petitioner applies for leave to withdraw his petition or asks that it be dismissed or that the hearing thereof be adjourned without mentioning sufficient cause or fails to appear in support thereof or if appearing does not apply for an order in terms thereof or if for any other sufficient reason the Court thinks so to do, the Court may, upon such terms as it thinks just, make an order permitting the petitioner to withdraw or striking off the petitioner from the petition and may, upon such terms as it thinks just, substitute as petitioner any other candidate or any other elector or body of electors who in its opinion would have a right to present a petition and is desirous of prosecuting the petition already admitted.

26. If no order for substitution of a new petitioner or petitioners be made by the Court under rules but the Court only permits the withdrawal of the petition, or strikes off the petitioner or petitioners from the petition, notice of the order of withdrawal of the petition or striking off the petitioner or petitioners shall be published by the Registrar in the Official Gazette and in the newspapers in which the original petition had been advertised under rule 15 and the Court may, on the application made within fourteen days of the publication of such notice in the Official Gazette by any other candidate or another ten electors who might himself or themselves have been a petitioner or petitioners, make an order upon such terms as it thinks fit, substituting such petitioner or petitioners in place of the petitioner or petitioners withdrawing or not appearing at the hearing or not proceeding with the petition. If no such application is made within the time aforesaid or, if made, the Court does not think fit to grant the same, the original petition shall stand dismissed.

27. Where the Court allows a candidate or any elector or body of electors to be substituted as petitioner or petitioners under rule 25 or rule 26, the Court shall appoint a date for the hearing of the petition and such substituted petitioner or petitioners shall within seven days from the making of the order file a clean copy of the petition with such consequential amendments as may be necessary by reason of the order of substitution therein and shall also file an affidavit verifying such amendments. The amended petition shall be treated as the petition for calling in question the election.

28. Upon hearing the application for withdrawal or at the time of making an order for substitution, the Court may, if it thinks fit, by order direct that the amount deposited by the original petitioner or petitioners as security for the costs of the respondent be applied in payment of the costs incurred by them upto the date of the substitution of the new petitioner or petitioners, so far as it may be necessary, and the balance, if any shall be refunded to the original petitioner or petitioners within seven days from the date of the order of substitution or such further time as the Court may allow.

29. Unless otherwise ordered by the Court, the substituted petitioner or petitioners shall deposit with the Registrar a sum of two thousand rupees as and by way of security for the costs of the respondents.

30. An election petition shall abate by the death of a sole petitioner or in case of several petitioners on the death of the survivor of them.

Provided that there shall be no abatement after the hearing of the petition has been concluded.

31. The abatement of a petition shall not affect the liability of the amount deposited by the petitioner as security for costs or the estate of the petitioner or petitioners for the payment of costs previously incurred.

32. On the abatement of a petition under rule 30, notice of such abatement having taken place shall be published by the Registrar in the Official Gazette and

the newspapers in which the original petition had been advertised and the Court may on the application made within fourteen days of the publication of such notice in the Official Gazette by any other candidate or body of electors who might have been a petitioner or petitioners as the case may be make an order, upon such terms as it thinks fit, substituting him or them in the place of the original petitioner or petitioners and the procedure prescribed in rule 27 and the provisions of rule 29 shall apply in relation to the substituted petitioner or petitioners.

33. If before the conclusion of the hearing of an election petition any contesting respondent dies or gives notice that he does not intend to oppose the petition and there is no other respondent who is opposing the petition, the Registrar shall cause a notice of such facts to be published in the Official Gazette and the newspapers in which the original petition had been advertised and any candidate or ten electors who might have been a petitioner or petitioners may, within fourteen days after such publication, apply to be substituted in the place of the respondent dying or not proceeding with his opposition to oppose the petition and the Court may make such order upon such terms as it thinks fit.

34. Subject to the provisions of this Order or any special order or directions of the Court, the procedure on an election petition shall follow, as nearly as may be, the procedure in proceedings before the Court in the exercise of its original jurisdiction.

35. At the conclusion of the hearing of the election petition, the Court shall make an order at once or on some future day of which due notice shall be given by the Registrar to all persons who appeared at the hearing of the petition.

36. After the order of the Court has been announced, the Registrar shall send a copy thereof to the Central Government for publication in the Official Gazette.

PART VIII

ORDER XL

REVIEW

1. The Court may review its judgment or order, but no application for review will be entertained in a civil proceeding except on the grounds mentioned in Order XLVII, rule 1 of the Code, and in a criminal proceeding except on the ground of an error apparent on the face of the record.

2. (1) An application for review shall be by a petition, and shall be filed within thirty days from the date of the judgment or order sought to be reviewed. It shall set out clearly the grounds for review and shall, unless otherwise ordered by the Court, be accompanied by a certificate from the Advocate who appeared at the hearing of the case for the party seeking review, or where the party appeared in person, from any Advocate of this Court, that it is supported by proper grounds. The certificate shall be in the form of a reasoned opinion.

(2) No application for review in a civil proceeding shall be entertained unless the party seeking review furnishes to the Registrar of this Court at the time of filing the petition for review cash security to the extent of two thousand rupees for the costs of the opposite party.

3. An application for review shall be posted before the Court for preliminary hearing and order as to the issue of notice to the opposite party. Upon such hearing, the Court may either dismiss the petition or direct a notice to the opposite party and the hearing for such party to be heard and require the petitioner to furnish security for the costs of the said party in the said proceeding in such amount as the Court may think proper. A petition for review shall as far as practicable be posted before the same Judge or Bench of Judges that delivered the judgment or order sought to be reviewed.

4. Where on an application for review the Court reverses or modifies its former decision in the case on the ground of mistake of law or fact, the Court, may, if it thinks fit in the interests of justice to do so, direct the refund to the petitioner of the court-fee paid on the application in whole or in part, as it may think fit.

PART IX

ORDER XLI

COSTS

1. Subject to the provisions of any statute or of these rules, the costs of and incidental to all proceedings shall be in the discretion of the Court. Unless the Court otherwise orders an intervener shall not be entitled to costs.

2. Where it appears that the hearing of any suit or matter cannot conveniently proceed by reason of the advocate on Record of any party having neglected to attend personally or by some proper person on his behalf, or having omitted to deliver any paper necessary for the use of the Court which are in his possession and which according to the practice ought to have been delivered, the advocate on record shall personally pay to all or any of the parties such costs as the Court may think fit to award.

3. Where in any proceeding, costs are awarded to any party, the Court may direct the payment of a sum in gross in lieu of taxed costs and may further direct by and to whom the said sum shall be paid.

ORDER XLII

TAXATION

1. The Registrar, or such other officer as the Chief Justice may appoint for the purpose, shall be the Taxing Officer of the Court.

2. The Taxing Officer shall allow all such costs, charges and expenses as appear to him to have been necessary or proper for the attainment of justice or for defending the rights of any party, and shall not allow any costs, charges and expenses which appear to him to have been incurred or increased unnecessarily or through negligence or mistake.

3. Where in the opinion of the Taxing Officer a fee ought to be allowed for any matter not provided for in these rules or a question arises in taxation on which he considers it necessary to obtain the directions of the Chamber Judge, the Taxing Officer may refer such matter to the Chamber Judge for orders.

4. Where the Taxing Officer is of opinion that any costs have been injuriously or unnecessarily occasioned by the negligence or improper conduct of any Advocate on record, he shall not allow any charge for the same without the leave of the Court.

5. The Taxing officer shall without delay bring to the notice of the Chamber Judge any wrong charge which appears to him to have been wilfully made in any bill of costs.

6. Every bill of costs lodged for taxation between Party and Party shall contain a certificate from the Advocate lodging the same that the fee paid to him by his client or agreed to be paid to him is not less than the amount of fee claimed by him in the Bill.

7. Every bill of costs shall be properly dated throughout and shall show in a column for the purpose the money paid out of pocket.

8. Every bill of costs shall be certified by the signature of the advocate on record in the case.

9. The fees for taxation and registration of every bill of costs shall be paid in court-fee stamps when the bill is lodged for taxation.

10. Every bill of costs shall, wherever possible, be accompanied by vouchers, and every item of disbursement and the cause thereof shall be distinctly specified, and no payment out of pockets shall be allowed except on production of the necessary voucher, or in the case of advocate's fee, without the signature of the Advocate that the fee has been paid, or agreed to be paid.

11. Within eight weeks from the date of the judgment or order awarding costs; or within such further time not exceeding four weeks as the Taxing Officer may for good cause allow, the party to whom the costs have been awarded shall lodge in the Registry the bill of costs and vouchers. He shall also serve on the opposite party a copy of the bill of costs and file in the Registry proof of such service. The Taxing Officer shall fix a date for the taxation of the bill and shall notify the parties of the date fixed.

12. A bill of costs presented out of time shall be returned to the party and the Taxing Officer shall not receive or tax the same except by order of the Chamber Judge.

13. Except as otherwise provided in these Rules or by any law for the time being in force, the fees set out in the Second and Fourth Schedules to these Rules may be allowed to Advocates and officers of Court respectively.

14. No retaining fee to an advocate shall be allowed on taxation as between party and party.

15. Where an advocate appears for different parties in the same suit, appeal or matter, only one set of fees shall be allowed, unless the Court otherwise orders.

16. Where two or more appeals arising out of a single proceeding are heard together and costs are awarded in both or all of them, only one set of Advocate's fee shall be allowed for the hearing, unless the Court or the Chamber Judge otherwise directs.

17. In defended appeals, suits and references under articles 143 and 317(1) of the Constitution, the first day's hearing fee shall be allowed in full, for the first four and a half hours of the hearing or part thereof, in accordance with the Schedule subject to the provisions contained in rules 19 and 20.

18. No refresher shall be allowed unless the hearing has lasted for more than four and a half hours, and the Taxing Officer shall have discretion to reduce the refresher or to allow a refresher having regard to the duration of the hearing after the first four and a half hours.

19. Where the hearing of a part-heard case is held up on account of the Court being occupied with any miscellaneous matters, the time taken in the hearing of such miscellaneous matters shall be taken into consideration by the Taxing Officer for the purposes of a refresher.

20. In cases involving less than twenty thousand rupees in value, the Taxing Officer shall have discretion to reduce the fees, including the first day's hearing fee and the 'acting' fee, suitably according to the nature of the case.

21. Where an appeal is compromised prior to its being set down for hearing, the fees to be allowed to advocate under item 1 of Part I of Schedule II shall be half the amounts specified therein subject to the terms of the compromise.

22. The fees provided in items 3 to 8 of Part I of the Second Schedule shall be subject to reduction in the discretion of the Taxing Officer according to the nature of the case.

Rules Relating to Advocates and Client Taxation

23. Where a dispute arises between the advocate on record and his client as to the fees and charges payable to the advocate, either party may apply to the Chamber Judge for an order to have the bill taxed and, on an order for taxation being made, the Taxing Officer may proceed to tax the bill. The application, when made by the Advocate, shall be accompanied by a copy of the bill sought to be taxed:

Provided that where the client has expressed his consent in writing to the taxation of costs between himself and his advocate on record in any proceeding, the advocate may present his bill of costs in that proceeding for taxation without an order of the Chamber Judge, and the Taxing Officer shall thereupon proceed to tax the bill.

24. In every case of taxation between advocate and his client, the client shall be duly summoned by the Taxing Officer to attend the taxation, and the summons shall be served on the client at least two weeks prior to the date fixed for taxation.

25. Subject to any agreement in writing to the contrary, the rules regulating the taxation of costs between party and party shall be applicable as far as may be to taxation between advocate and client.

26. No agreement between the advocate on record and his client to pay fees higher than those prescribed in the Second Schedule shall be recognised unless the same has been recorded in writing and is signed by the client and has been filed before the commencement of the hearing.

Explanation

For the purpose of this rule "agreement in writing" shall include the correspondence between the advocate on record and his client from which such an intention may be gathered.

27. Where the Taxing Officer is of the opinion that any such agreement filed as aforesaid is unfair or unreasonable, he may place the matter before the Chamber Judge to be taken thereon and the Judge may make such order as he may think just, and the taxation shall proceed in accordance with such order:

Provided that where fees are payable by the client personally or out of a fund belonging entirely to him, any fees actually paid by the advocate on record to the senior or other advocate in excess of the fees prescribed in the Schedule shall not be called in question if the payment of such fee is duly authorised by the client.

28. Where the amount of a bill of costs between advocate and client is reduced by 1/6th or more, the advocate's fee for attending taxation shall be disallowed.

29. An advocate whose bill against his client has been taxed may apply to the Chamber Judge for an order against his client or his legal representative for payment of the sum allowed on taxation or such sum thereof as may remain due to him. The order so made may be transmitted for execution to such court as the Chamber Judge may direct.

Review of Taxation and Miscellaneous Provisions.

30. Any party who is dissatisfied with the allowance or disallowance by the Taxing Officer of the whole or any part of the items in a bill of costs may apply to the Taxing Officer to review the taxation in respect thereof.

31. An application for review shall be made within three weeks and a copy of the application shall be served on the opposite party.

32. Objections in writing specifying concisely the items or parts of the bill objected to and the grounds for the objections shall be served with the notice on the other party, and a copy thereof shall at the same time be carried in before the Taxing Officers.

33. Objections which were not taken in at the time of the taxation shall not be taken in at the stage of review, unless allowed by the Taxing Officer.

34. Upon application to review his order, the Taxing Officer shall reconsider his taxation upon the objections carried in and may, where he thinks fit, receive further evidence in respect thereof, and shall state in a certificate the grounds of his decision thereon and any special facts or circumstances relating thereto.

35. Any party dissatisfied with the decision of the Taxing Officer on review may, not later than seven days from the date of the decision, or within such further time as the Taxing Officer or the Chamber Judge may allow, apply to the Chamber Judge for an order to review the decision of the Taxing Officer and the Chamber Judge may thereupon make such order as may seem just.

36. No evidence shall be received by the Chamber Judge upon the review of the Taxing Officer's decision which was not before the Taxing Officer when he taxed the bill or reviewed his taxation unless the Chamber Judge otherwise directs.

37. The certificate of the Taxing Officer by whom any bill has been taxed shall unless it is set aside or altered by the Chamber Judge, be final as to the amount of the costs covered thereby.

38. The allowances to be made to witnesses *per diem* shall be such as the Taxing Officer may think reasonable having regard to the profession or status of the witness.

39. Witnesses residing more than five miles from the place where the Court sits shall be allowed travelling expenses according to the sums reasonably and actually paid by them and shall also be allowed such sum for subsistence money and carriage hire as the Taxing Officer, having regard to the daily allowances under Rule 38, considers reasonable.

40. Every person summoned to give evidence shall have tendered to him with the summons a reasonable sum for his travelling expenses (if any) and for the first day's attendance and shall, if obliged to attend for more than one day, be entitled, before giving his evidence, to claim from the party by whom he has been summoned the appropriate allowances and expenses for each additional day that he may be required to attend.

41. Witnesses who have not been paid such reasonable sums for their expenses as the Court allows by its Rules may apply to the Court at any time in person to enforce the payment of such sum as may be awarded to them.

42. For the purposes of these rules, a folio shall be deemed to consist of two hundred words; seven figures shall be counted as one word; and more than half a folio shall be reckoned as a folio.

43. Where the costs of any proceeding which terminated prior to the 26th of January, 1954, have to be taxed, such costs shall be taxed in accordance with the taxation rules which were in force prior to the said date.

PART. X

Miscellaneous

ORDER XLIII

NOTICE OF PROCEEDINGS TO THE ATTORNEY GENERAL FOR INDIA OR ADVOCATE GENERAL OF STATES

1. The Court may direct notice of any proceedings to be given to the Attorney General for India or to the Advocate-General of any State, and the Attorney General for India or the Advocate-General to whom such notice is given may appear and take such part in the proceedings as he may be advised.

2. The Attorney General for India or the Advocate-General of any State may apply to be heard in any proceedings before the Court, and the Court may, if in its opinion the justice of the case so requires, permit the Attorney General for India or the Advocate-General so applying to appear and be heard, subject to such terms as to costs or otherwise as the Court may think fit.

ORDER XLIV

FORMS TO BE USED

1. Every writ, summons, orders, warrant or other mandatory process shall bear the attestation of the Chief Justice, and shall be signed by the Registrar with the day and the year of signing, and shall be sealed with the seal of the Court.

2. The forms set out in the Fifth Schedule to these rules, or forms substantially to the like effect with such variations as the circumstances of each case may require, shall be used in all cases where those forms are appropriate.

ORDER XLV

SERVICES OF DOCUMENTS

1. Except where otherwise provided by any Statute or prescribed by these Rules, all notices, orders or other documents required to be given to, or served on, any person shall be served by the Registry in the manner provided by the Code for the service of a summons.

2. Service of any notice, order or other document on the advocate on record of any party may be effected by delivering it to the advocate on record or by leaving it with a clerk in his employ at his place of business.

3. Service of any notice, order or other document upon a person who resides at a place within the territory of India may ordinarily be effected by posting a copy of the document required to be served in a pre-paid envelope registered for acknowledgement addressed to the party or personally at the place where he ordinarily resides and through the District Judge concerned:

Provided that the Registrar may direct in a particular case or class of cases, that the service shall be effected in the manner provided by the Code for the service of summons.

4. A document served by post shall be deemed to be served at the time at which it would be delivered in the ordinary course of post.

5. Except where the notice or process has been served through Registry, the party required to effect the service shall file an affidavit of service, along with such proof thereof as may be available stating the manner in which the service has been effected.

6. Where the notice, order or other document has been served through another court, the service may be proved by the deposition or affidavit of the serving officer made before the court through which the service was effected.

7. Service effected after Court hours shall for the purpose of computing any period of time subsequent to that service be deemed to have been effected on the following day.

ORDER XLVI

COMMISSIONS

1. Order XXVI in the First Schedule to the Code with respect to commissions shall apply except rules 13, 14, 19, 20, 21 and 22 thereof.

2. An application for the issue of a commission may be made by summons in Chambers after notice to all parties who have appeared or *ex parte* where there has been no appearance.

3. The Commissioner shall, if the advocate or other person examining a witness so desires, record a question disallowed by the commissioner and the answer thereto, but the same shall not be admitted as evidence until the Court before whom the deposition is put in evidence shall so direct.

4. The Court may, when the commission is not one for examination on interrogatories, order that the commissioner shall have all the powers of a court under Chapter X of the Indian Evidence Act, 1872 (1 of 1872) to decide question as to the admissibility of evidence, and to disallow any question put to a witness.

5. Unless otherwise ordered, the party at whose instance the commission is ordered to issue, shall lodge in the Court copies of the pleadings in the case within twentyfour hours of the making of the order and those copies shall be annexed to the commission when issued.

6. Any party aggrieved by the decision of the commissioner refusing to admit evidence or allow a question to be put may apply to the Court to set aside the decision and for direction to the Commissioner to admit the evidence or to allow the question but no such application shall be entertained if made later than seven days after the examination of the witness has been closed.

7. After the deposition of any witness has been taken down and before it is signed by him, it shall be read over and where necessary, translated to the witness, and shall be signed by him and left with the commissioner who shall subscribe his name and the date of the examination.

8. Commissions shall be made returnable within such time as the Court may direct.

ORDER XLVII

POWER TO DISPENSE AND INHERENT POWERS.

1. The Court may, for sufficient cause shown, excuse the parties from compliance with any of the requirements of these Rules, and may give such directions in matters of practice and procedure as it may consider just and expedient.

2. An application to be excused from compliance with the requirements of any of the rules shall be addressed in the first instance, to the Registrar, who shall take instructions of the Judge in Chambers thereon and communicate the same to the parties, but, if, in the opinion of the Registrar, it is desirable that the application should be dealt with in open Court, he may direct the applicant to serve the other party with a notice of motion returnable before the Court.

3. The Court may enlarge or abridge any time appointed by these Rules or fixed by any order enlarging time, for doing any act or taking any proceeding, upon such terms (if any) as the justice of the case may require, and any enlargement may be ordered, although the application therefor is not made until after the expiration of the time appointed or allowed.

4. The Court may at any time, either of its own motion or on the application of any party, make such orders as may be necessary or reasonable in respect of any of the matters mentioned in Rule 8 of order XXIV of these Rules, may issue summonses to persons whose attendance is required either to give evidence or to produce documents, or order any fact to be proved by affidavit.

5. When there are two or more appeals arising out of the same matter the Court may at any time either on its own motion or on the application of any party order that the appeals be consolidated and make such orders for security of the cost as the justice of the case requires.

Unless otherwise ordered by this Court the liability of the parties to pay separate Court fees shall not be effected by any order for consolidation.

6. Nothing in these rules shall be deemed to limit or otherwise affect the inherent powers of the Court to make such orders as may be necessary for the ends of justice or to prevent abuse of the process of the Court.

PART XI

ORDER XLVIII

DESTRUCTION OF RECORDS

1. There shall be an index of the records in every case in the form prescribed below:—

Index of Papers.

in

Civil Appeal No. of (or Criminal Appeal No.
or Petition No. or Suit No.).

Cause Title.

Serial No.	Date of filing the paper in the record	Description of paper	No. of the part to which it belongs.	Remarks
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2. The record in each case shall be divided into two parts, Part I to be preserved permanently and Part II to be preserved for a period of not less than three and not more than six years as hereinafter provided.

3. Each paper as and when it is filed in the record shall be numbered and entered in the Index and classified in such manner as the Registrar may direct under the appropriate Part to which it belongs.

4. The period for which any particular record is to be preserved shall be reckoned from the date of the final decree or order in the proceeding to which the record belongs, and in case an application for a review is filed against the decree or order, from the date of the final decree or order made on review. In the case of registers, the period shall be reckoned from the date of the last entry in the register.

5. The Registrar may direct that any paper assigned to Part II be transferred to Part I for being preserved permanently.

6. Records which do not fall under Part I or Part II as classified below shall be referred to the Registrar who shall decide the part under which they should be included.

7. When any record is ripe for destruction, it shall either be burnt or sold as waste-paper, as the Registrar may in his discretion direct.

8. Where the record is sold as waste paper, the sale proceeds shall be credited to the Central Government.

9. As soon as a record is destroyed, a note shall be made in the Index against the record showing that it has been destroyed and the date of destruction.

10. Part I—

The following papers shall be included under Part I (to be preserved permanently):—

1. Index.
2. Judgment.
3. Decree or Order.
4. Order for costs.
5. Pleadings (plaint, written statement, set off and counter claim).
6. Authenticated copy of the printed record.
7. Petition of appeal.
8. Statement of Case.
9. Original Petitions including special leave petitions and Article 32 petitions.
10. Interlocutory applications other than applications for condonation of delay and other formal applications.
11. Orders on petitions.
12. Reference received under Article 143.
13. Reference received under Article 317(1).
14. Memorandum of compromise: award of arbitrators, which results in a decree.
15. Title deeds, if any remaining unreturned to any party.
16. Any other records or papers which the Registrar may direct to be included in this Part.

Registers

1. Minutes Book.
2. Registers of Suits, Civil, and Criminal appeals, petitions under article 32, special leave petitions, special references and miscellaneous petitions.
3. Register of papers received.
4. Rolls of advocates and enrolment files.

Part II—

The following papers shall be included in Part II and shall be destroyed after a period of three or six years as indicated below:—

- | | |
|--|----------------|
| 1. Appearance, power of attorney and v akalatnam . | } Six years. |
| 2. Affidavits. | |
| 3. Taxation files including bills of costs. | |
| 4. Register of bills of costs. | |
| 5. Despatch register. | |
| 6. Surplus copies of printed records, and of pleadings and petitions. | } Three years. |
| 7. Applications for condonation of delay and such other formal applications. | |
| 8. Correspondence in cases. | |
| 9. Unclaimed documents filed by parties other than title deeds | |
| 10. Office notes in the case files. | |
| 11. Copies of summons and notices. | |
| 12. Copying register. | |

PART XII

ORDER XLIX

APPEALS AND OTHER PROCEEDINGS TRANSFERRED UNDER CLAUSE (4) OF ARTICLE 374 OF THE CONSTITUTION

The rules contained in the foregoing Orders shall apply, so far as may be, to all appeals and other proceedings, transferred to the Court under clause (4) of article 374 of the Constitution and pending in it in respect of all stages subsequent to the transfer.

FIRST SCHEDULE

Rules as to Printing of Record

1. The record in appeals to the Court shall be printed in the form known as demy quarto on both sides of the paper with single spacing.
2. The size of the paper used shall be such that the sheet, when folded and trimmed, will be about 11 inches in height and 8½ inches in width.
3. The type to be used in the text shall be pica type, but "Long Primer" shall be used in printing accounts, tabular matter and notes. Every tenth line shall be numbered in the margin.
4. Records shall be arranged in two parts in the same volume, where practicable, viz.—

Part I.—The pleadings and proceedings, the transcript of the evidence of the witnesses, the judgments, decrees, etc., of the courts below, down to the order admitting the Appeal.

Part II.—The exhibits and documents.

5. The Index to Part I shall be in chronological order, and shall be placed at the beginning of the volume.

The Index to Part II shall follow the order of the exhibit mark, and shall be placed immediately after the Index to Part I.

6. Part I shall be arranged strictly in chronological order, i.e., in the same order as the Index.

Part II shall be arranged in the most convenient way for the use of the Court, as the circumstances of the case require. The documents shall be printed as far as suitable in chronological order, mixing plaintiff's and defendant's documents together when necessary. Each document shall show its exhibit mark, and whether it is a plaintiff's or defendant's document (unless this is clear from the exhibit mark) and in all cases documents relating to the same matter such as:

- (a) a series of correspondence, or
- (b) proceedings in a suit other than the one under appeal,

shall be kept together. The order in the record of the documents in Part II will probably be different from the order of the Index, and the proper page number of each document shall be inserted in the printed Index.

The parties will be responsible for arranging the record in proper order for the Court, and in difficult cases counsel may be asked to settle it.

7. The documents in Part I shall be numbered consecutively.

The documents in Part II shall not be numbered, apart from the exhibit mark.

8. Each document shall have a heading which shall consist of the number of exhibit mark and the description of the document in the Index, without the date.

9. Each document shall have a heading which shall be repeated at the top of each page over which the document extends, viz.—

Part I

(a) Where the case has been before more than one court, the short name of the court shall first appear. Where the case has been before only one court, the name of the court need not appear.

(b) The heading of the document shall then appear consisting of the number and the description of the documents in the Index, with the date, except in the case of oral evidence.

(c) In the case of oral evidence, 'Plaintiff's evidence' or 'Defendant's evidence' shall appear next to the name of the court and then the number in the Index and the witness's name, with 'examination', 'cross-examination' or 're-examination' as the case may be.

Part II

The word 'Exhibit' shall first appear and next to it the exhibit mark and the description of the document in the Index with the date.

Sufficient space shall be left after the heading to distinguish it from the rest of the matter printed on the page.

10. The parties shall agree to the omission of formal and irrelevant documents; but the description of the document may appear (both in the Index and in the record), if desired, with the words 'not printed' against it.

A long series of documents, such as accounts, rent rolls, inventories, etc., shall not be printed in full, unless counsel advises, but the parties shall agree to short extracts being printed as specimens.

11. In cases where maps are of an inconvenient size or unsuitable in character the appellant shall, in agreement with the respondent, prepare maps drawn properly to scale and of reasonable size, showing as far as possible, the claims of the respective parties, in different colours.

SECOND SCHEDULE

Fees payable to Advocates

Part I

		Fee on brief not exceeding	Refresher not exceeding
		Rs.	Rs.
1. Defended appeals, suits or references under article 143 or article 317 (1) of the Constitution or defended petitions under article 32 of the Constitution.	Leading counsel	600	300
	Associate advocate, if any	300	150
	Advocate-on-record for instructing	300	150

		Fee on brief not exceeding	Refresher not exceeding
		Rs.	Rs.
2. Undefended appeals	One fee	350	No refresher.
3. Petitions for special leave	<div> <div>Leading counsel</div> <div>Associate advocate on-record when not pleading but only instructing</div> </div>	<div> <div>200</div> <div>100</div> </div>	} No refresher.
4. Undefended petitions under article 32 of the Constitution.	<div> <div>Leading counsel</div> <div>Associate advocate or Advocate-on-record when not pleading but only instructing</div> </div>	<div> <div>200</div> <div>150</div> </div>	
5. Notices of motion other than petitions under article 32 of the Constitution when opposed	<div> <div>Leading counsel</div> <div>Associate advocate on-record</div> </div>	<div> <div>150</div> <div>100</div> </div>	} No refresher .
6. Petitions in court for review	<div> <div>Leading counsel</div> <div>Associate advocate on-record</div> </div>	<div> <div>200</div> <div>150</div> </div>	
7. Opposed applications or investigations in Chambers	One fee	150	
8. Unopposed motions and Chamber applications and review applications in taxation	One fee	50	
9. Attending taxation or hearing judgment	One fee	30	
10. Attending settlement of Index and for taking other steps for preparation of the record		150	

Part II

		No exceeding
		Rs.
1. To junior advocate for drafting petitions for special leave and petitions under article 32 of the Constitution inclusive of the affidavits in support of the petition		120
To the senior for settling petitions for special leave and petitions under article 32 of the Constitution inclusive of the affidavits in support of the petition		150
2. To junior advocate for drafting other petitions or affidavits (other than formal petitions like petitions for excusing delay and affidavits in them and affidavits of service)		30
To senior advocate for settling other petitions or affidavits (other than formal petitions like petitions for excusing delay and affidavits in them and affidavits of service)		60
3. To junior advocate for drawing statement of case in appeals, pleadings in suit or special case		300

Not exceeding

To senior advocate for settling statement of case in appeals, pleadings in suit or special case in consultation with junior, if allowed	Rs. 450
4. Acting fees: In appeals (defended and undefended) including suits and References under article 143 or article 317(1) of the Constitution or defended petitions under article 32 of the Constitution.	Rs. 500 but not less than Rs. 250/-, as the Taxing Officer may in his discretion allow, having regard to the nature and duration of the 'Acting' work involved in the case.
In undefended petitions under article 32 of the Constitution]	100
Actual postal and telegraph charges where necessary, to be allowed in the discretion of the Taxing Officer.	

Part III

1. Preparing copies of documents (other than tabulated statements and accounts) whether written or typed, first copy per folio	25 P.	} or actual charges incurred.
2. Preparing carbon copies of above, if legible, per folio	12 P.	
3. Preparing copies of tabulated statements and accounts, per folio	50 P.	
4. Preparing carbon copies of above per folio	25 P.	
5. Preparing lithographed or printed copies per folio for each copy	31 P.	
6. Preparing photographed copies	Actual charges.	
7. Making transcript or copying papers for the press where necessary for preparing paper book, including examination, per folio	62 P.	
8. Printing paper book	Actual cost at a reasonable rate to be allowed by the Taxing Officer.	
9. Examining proofs, per folio	31 P.	

THIRD SCHEDULE

Table of Court Fees

Part I

Original Jurisdiction

	Rs.
1. Filing and registering plaint.	250.00
2. Filing and registering written statement	50.00
3. Filing and registering set-off or counter-claim	50.00
4. Reply to a counter-claim	50.00
5. Examining and comparing documents with the original, for each folio	*50
6. Reducing into writing or, where taken down in shorthand, transcribing the depositions of witnesses, for each folio	*62
7. Typed copies of transcript of depositions of witnesses for any party:— first copy, per folio	*50
carbon copies, per folio	*12
8. Petitions under article 32 of the Constitution other than petitions for <i>habeas corpus</i> and petitions arising out of criminal proceedings	50.00

Part II

Appellate Jurisdiction

	Rs.
1. Petition for special leave to appeal	250-00
2. Lodging and registering petition of appeal:	
Where the amount or value of the subject matter in dispute is Rs.	
20,000 or below that sum	250-00
For every Rs. 1,000 in excess of Rs. 20,000	5-00
	for every thousand rupees or part thereof.
In cases where it is not possible to estimate at a money value the sub- ject matter in dispute	250-00
Provided:	
(1) that the maximum fee payable in any case shall not exceed Rs. 2,000 and	
(2) that where an appeal is brought by special leave granted by the Court credit shall be given to the appellants for the amount of court-fee paid by him on the petition for special leave to appeal.	
3. Lodging of case, or caveat	20-00
4. Application for review of judgment or order of Court	The same fee as was paid on the original proceeding.

Part III

Miscellaneous

	Rs.
1. Entering in register of suits, appeals or matters, names of representa- tives of a deceased party or of a substituted or added party	2-00
2. Summons or notice to defendant or his representative or a respondent to a petition or to a memorandum of appeal, for not more than five per- sons, (with an additional fee of Re. 1 for every person in excess of five)	5-00
3. Entering appearance	5-00
4. Amending appearance	5-00
5. Vakalatnama	3-00
6. Filing fee for every document for which a fee is not specially provided including documents annexed thereto as exhibits if any, or produced with plaint or used in evidence, each document	2-00
7. Every application to the Court not specially provided for	10-00
8. Every application to the Court by notice of motion where an <i>ad interim</i> <i>ex-parte</i> order is prayed for	20-00
9. Every application to a Judge in Chambers, the Registrar or Taxing Officer not specially provided for	5-00
10. Every requisition to draw up an order, including fee for filing the order	5-00
11. Warrant, writ, summons or other process not specially provided for, for not more than five persons (with an additional fee of Re. 1 for every person in excess of five)	5-00
12. Every certificate or report of a Judge in Chambers or of Registrar on an investigation	10-00
13. Every other certificate for which a fee is not specially provided	5-00
14. Commission to examine witnesses or other commission	10-00
15. Production by an officer of the Court in any other court or before a Commissioner of records of any suit, matter or appeal, exclusive of travelling expenses	10-00

	Rs.
16. For production of records by post, exclusive of postage, registration and insurance fees	5.00
17. For every attendance on parties or their advocates inspecting books and papers in Court	5.00
18. For enquiry into sufficiency of security	8.00
19. For every search or examination of records	3.00
20. Every affidavit affirmed or Sworn	2.00
21. For every oath or affirmation administered to witness	3.00
22. Every exemplification of decree or other document in addition to the folio and other charges	10.00
23. Every requisition for duplicate or other copy of any document	1.00
24. For duplicate and other copies of any document, per folio less requisition fee paid . . . . .	.62
25. For amending pleadings or other proceedings under order of the Court, per folio	2.00
26. Upon all moneys or securities paid to the Registrar or deposited with him	A commission of 1 per cent and 2-1/2 per cent on interest drawn on invested money.
27. Every requisition for translation	1.00
28. Every written translation, per folio, less requisition fee paid	2.00
29. Checking and certifying a translation made by a translator other than an officer of the Court, per folio	1.00
30. Summons by Taxing Officer	3.00
31. Certificate by Taxing Officer	2.00
32. Taxing each bill, not exceeding 10 folios	10.00
33. For every other folio	1.00
34. Registering every bill of costs	1.00
35. Special certificate of allowance where required	8.00
36. Certificate on review of taxation	10.00
37. For every certificate of funds in Court	8.00
38. Requisition to prepare an estimate of the charges for preparation of record	10.00
39. Preparing, copies, making transcript or keeping papers for the press for preparing paper book including examination thereof, to be deposited in cash initially and thereafter to be converted into court fees . . . . .	.50 per page
40. Examining proofs from the press . . . . .	.25 per page
41. Cyclostyling record : For 20 copies or less For every additional 5 copies or less	2.50 per page .50 per page
42. Printing the record	Actual charges to be ascertained according to the prevailing rates, (to be deposited in cash).
43. Preparing photograph copies or copies of maps.	Actual charges (to be deposited in cash).

Rs.

- | | | |
|--|-----------|---|
| 44. Certification of the record. | | 25 per page or part thereof to be deposited in cash and thereafter to be converted into Court fees. |
| 45. Registering a clerk of an advocate or a firm of advocates | | 5.00 |
| 46. Requisition for issue of an identity card in substitution of one that is lost or damaged | | 3.00 |

N.B.—In the case of references under article 142 of the Constitution such of the above fees as may be appropriate shall be charged.

FOURTH SCHEDULE

Fees to Officers of Court

- | | Rs. |
|--|---|
| 1. Fees of Interpreter for explaining at the house of a party or any place other than the Court House, pleadings and other documents except affidavits or affirmations where not exceeding 20 folios | 8.00 |
| Where over 20 folios, for every 10 folios or part thereof. | 2.50 |
| 2. Fees of Registrar for taking bonds and of commissioners for taking affidavits or affirmations at the house of a party or any place other than the Court House: | |
| For the first affidavit, oath or affirmation or bond, where within the limits of the Union territory of Delhi. | 10.00 |
| For the first affidavit, oath or affirmation or bond, where beyond such limits | 24.00 |
| For every affidavit, oath or affirmation or bond taken at the same time and place after the first, in the same suit, appeal or matter | 8.00 |
| 3. Fees of commissioners, for receiving affidavit, oaths or affirmations at the Court House, for every affidavit, oath or affirmation. | 2.00 |
| 4. Fees of Interpreter for explaining bonds, affidavits, or petitions, at the house of a party or any place other than the Court House. | Half the fees allowed to Registrar or Commissioner. |

FIFTH SCHEDULE

FORMS

No. 1

(S.C.R. Order IV-Rule 12)

In the Supreme Court of India

Application for the registration of a clerk.

1. Name of advocate/firm of advocates on whose behalf the clerk is to be registered:

2. Particulars of the clerk to be registered:

- (i) Full name (In capitals):
- (ii) Father's name:
- (iii) Age and date of birth:
- (iv) Place of birth and nationality:
- (v) Educational qualifications:
- (vi) Particulars of previous employment, if any.

I, _____ (clerk above-named), do hereby affirm that the particulars relating to me given above are true.

(Signature of Clerk)

3. Whether the advocate/firm of advocates has a clerk already registered in his/its employ, and whether the clerk sought to be registered is in lieu of or in addition to the clerk already registered.

4. Whether the clerk sought to be registered is already registered as a clerk of any other advocate and if so, the name of such other advocate.

I, _____ (advocate) certify that the particulars given above are true to the best of my information and belief and that I am not aware of any facts which would render undesirable the registration of the said _____ (name) as clerk.

Dated: _____

(Signature of advocate/partner of firm of advocates.)

To

The Registrar,
Supreme Court.

No. 2.

Form of Summons for an Order in Chambers

(S.C.R., Order VI)

In the Supreme Court of India

[Appellate Jurisdiction]
[Original Jurisdiction]

Appeal _____ No. _____ of _____ 19 _____
Case

[A.B.] _____
[State of C.D.]

[Appellant]
[Plaintiff]

Vs.

[C.D.] _____
[State of C.D.]

[Respondent]
[Defendant]

Let all parties concerned attend before _____ in Chambers at the Court House (New Delhi) on the _____ day of _____, at _____ o'clock in the forenoon on the hearing of an application on the part of the above named

plaintiff (or appellant, defendant, respondent as the case may be) for an order that (here state the precise object of the application).

Dated this the day of 19 .

[Take notice that this summons will be attended by counsel for the applicant.]

(Signed) _____

Advocate on record for the plaintiff.

[This summons was taken out by _____ advocate on record for the plaintiff.]

To

Advocate on record for the defendant.

No. 3

Notice of Appeal from Registrar

(S.C.R., Order VI rule 3)

In the Supreme Court of India

[Appellate Jurisdiction]

[Original Jurisdiction]

Appeal

Case

No.

of

19

[A.B.]

[State of A.B.]

[Appellant]

[Plaintiff]

Vs.

[C.D.]

[State of C.D.]

[Respondent]

[Defendant]

Take notice that the above-named plaintiff (or appellant, respondent, defendant as the case may be) intends to appeal against the decision of the Registrar, given on the day of (ordering or refusing to order) that

And further take notice that you are required to attend before the Judge in Chambers at the Court House (New Delhi) on the day of 19 at o'clock in the forenoon, on the hearing of an application by the said plaintiff (or appellant, respondent, defendant as the case may be) for an order that (here state the order sought to be obtained).

(Signed) _____

Advocate on record for the plaintiff.

To

Advocate on record for the defendant.

No. 4

Notice of Motion

(S.C.R., Order VIII rule 2)

In the Supreme Court of India

[Appellate Jurisdiction][Original Jurisdiction]Appeal

No. of 19 .

Case[A.B.][Appellant][State of A.B.][Plaintiff]

Vs.

[C.D.][Respondent][State of C.D.][Defendant]

Take notice that the Court will be moved on the day of
19 at o'clock in the forenoon, or so soon thereafter as counsel can be
heard, by Mr. _____, counsel for the above-named
plaintiff (or defendant, appellant, respondent as the case may be, that (or for
an order that, or for) (here state the precise object of the motion, as thus: this
action may stand dismissed for want of prosecution).

Dated this the day of 19 .

(Signed) _____

Advocate on record for the plaintiff.

To

Advocate on record for the defendant.

No. 5

Form of Oath by Translator

(S.C.R., Order X, rule 4)

In the Supreme Court of India

In the matter of , a translator.

I, solemnly affirm and say that I will translate
correctly and accurately all documents given to me for translation.

Dated this the day of

Before me.

Registrar.

No. 6

Application for Production of Record

(S.C.R., Order XII, rule 1)

In the Supreme Court of India

[Appellate Jurisdiction][Original Jurisdiction]Appeal

No. of 19 .

Case

[A.B.]
[State of A.B.]

[Appellant]
[Plaintiff]

Vs.

[C.D.]
[State of C.D.]

[Respondent]
[Defendant]

To

The Registrar,
Supreme Court of India.

Sir,

Please produce the records of the within mentioned case before
No. (here insert the number and title of the case of which the records
are required).

Dated this the day of 19 .

(Signed) _____

No. 7

Notice to the respondent of lodgment
of petition of appeal.
(S.C.R. Order XV rule 11)

In the Supreme Court of India
Civil Appellate Jurisdiction
Civil Appeal No. of 19 .

(Appeal from the judgment and decree/order of the High Court of Judicature
at (full particulars to be given))

[A.B.]

[Appellant]

Vs.

[C.D.]

[Respondent]

To

C.D.

Through Shri

Advocate-on-record,

Supreme Court of India,

New Delhi.

OR

(give the address of the respondent if no appearance of an advocate-on-
record has been entered).

TAKE NOTICE that the Appellant above-named has on
filed in the Registry of the Supreme Court a petition of appeal (copy enclosed)
from the judgment and decree/order of the High Court of Judicature at
.....and the said petition has been registered in the Supreme Court as
Civil Appeal No. ——— of 19 , and that as required by rule 6 of Order XV

of the Supreme Court Rules, 1966, the appellant has deposited with the Registrar of the Court requisite security for the cost of the respondent.

Notice is hereby given to you that if you wish to contest the appeal you may appear within thirty days of the receipt of this notice before this Court either personally or by an advocate-on-record of the Court appointed by you in that behalf, and take such part in the proceeding as you may be advised.

Take further notice that in default of your appearance within the time prescribed the appeal will be proceeded with and determined in your absence and no further notice in relation thereto shall be given to you.

Dated this the _____ day of _____ 19 .

ASSISTANT REGISTRAR.

Address for service on the Appellant:

(If the appeal has been filed through an advocate-on-record, the address of the advocate-on-record should be given)

OR

If the party is appearing in person then a local address should be given).

NOTE:—

Where the record of the appeal is required to be prepared under the supervision of the Registrar of the Court appealed from, the notice shall also state this fact and shall, in relation to the preparation of the record, also require the respondent to take steps before the court appealed from (vide rule 14 of Order XV, of the Supreme Court Rule, 1966).

No. 8

Memorandum of Appearance in Person

(S.C.R. Order XV, rule 12)

In the Supreme Court of India

(Appellate Jurisdiction)

[A.B.]	Appeal No.	of	19 .	[Appellant]
		Vs.		
[C.D.]				[Respondent]
To				|

The Registrar,

Please enter an appearance for the respondent above-named in this appeal.

Dated this the _____ day of _____ 19 .

(Signed) _____
Address for Service.

No. 9

Memorandum or Appearance through Advocate-on-record

(S.C.R., order XV, rule 12)

In the Supreme Court of India

[Appellate Jurisdiction]
[Original Jurisdiction]

Appeal _____ No. _____ of _____ 19 .
Case

[A.B.]
[State of A.B.]

[Appellant]
[Plaintiff]

Vs.

[C.D.]
[State of C.D.]

[Respondent]
[Defendant]

To

The Registrar,

Please enter an appearance for the above-named Respondent (or the defendant) in this appeal.
case.

Dated this the day of 19 .

(Signed) _____
Advocate on record for the Respondent.

No. 10

Notice to Respondent of Lodging of Appeal

(S.C.R., Order XXI, Rule 15)

In the Supreme Court of India

[Appellate Jurisdiction]

Criminal Appeal No. of 19 .

Appeal from the judgment (order, sentence or decision) of the
High Court of Judicature at
Court of Tribunal.

[A.B.]

[Appellant]

Vs.

[The State]

[Respondent]

To

The Attorney General for India and/or
The Advocate General concerned.

Take notice that an appeal from the judgment (order, sentence or decision) of the High Court of Judicature.
of the _____ at

_____ of Court

dated the 19 , in Case No. _____
(here give number of case in High Court, or Judicial Commissioner's Court) was presented by the above-named appellant on the
day of 19 , and has been registered in this Court as Criminal
Appeal No. of 19 .

Dated this the day of 19 .

Registrar.

Summons for Directions.

(S.C.R., Order XXIV, rule 8).

In the Supreme Court of India.

[Original Jurisdiction].

Case No. _____ of 19____

[State of A.B.]

[Plaintiff]

 $V_{\varepsilon}.$

[State of C.D.]

[Defendant]

Let all parties concerned attend, in Chambers at the Court House (New Delhi) on the day of 19, at o'clock in the forenoon on the hearing of an application by the plaintiff for directions in this action as follows:— [The applicant should specifically state what he applies for, and strike out what he does not apply for.]

Pleadings	.	.	.	.	.	.	.	.	.
Particulars	.	.	.	.	.	.	.	.	.
Admission of documents and facts	.	.	.	.	.	.	.	.	.
Discovery	.	.	.	.	.	.	.	.	.
Interrogatories	.	.	.	.	.	.	.	.	.
Inspection and production of documents	.	.	.	.	.	.	.	.	.
Inspection of real or personal property	.	.	.	.	.	.	.	.	.
Commissions	.	.	.	.	.	.	.	.	.
Examination of witnesses	.	.	.	.	.	.	.	.	.
Place of trial	.	.	.	.	.	.	.	.	.
Mode of trial	.	.	.	.	.	.	.	.	.

[Here state the directions required, as thus

That the plaintiff may be at liberty to amend his statement of claim by (state amendments proposed), and generally as he may be advised.]

Dated this the day of 19

Registrar.

This summons was taken out by Advocate on record for the plaintiff.

To

.....,

Advocate on record for the defendant.

No. 14

Notice of payment of Money into Court

(S.C.R., Order XXXIII, rule 1)

In the Supreme Court of India

(Original Jurisdiction)

Case No. _____ of 19 ____ .

[State of A.B.]

[Plaintiff]

Vs.

[State of C.D.]

[Defendant]

Take notice that the defendant has paid into Court Rs. _____ and says that (Rs. _____ part of) that sum is enough to satisfy the plaintiff's claim (for _____ and Rs. _____ the other part of that sum is enough to satisfy the plaintiff's claim for _____) and admits (but denies) liability therefor.

Dated this the _____ day of _____ 19 ____ .

(Signed) _____,

Advocate on record for defendant.
Address, _____

To _____

Advocate on record for plaintiff,
Address, _____

No. 15

Acceptance of sum paid into Court

(S.C.R., Order XXXIII, rule 1)

In the Supreme Court of India

(Original Jurisdiction)

Case No. _____ of 19 ____ .

[State of A.B.]

[Plaintiff]

Vs.

[State of C.D.]

[Defendant]

The plaintiff accepts the sum of Rs. _____ paid by the defendant into Court in satisfaction of the claim in respect of which it was paid in (and abandons his other claims in this action).

Dated this the _____ day of _____ 19 ____ .

(Signed) _____,

Advocate on record for the plaintiff.
Address, _____

To _____

Advocate on record for the defendant.
Address, _____

No. 16

Notice to the Attorney General for India of reference under article 143 of the Constitution of India.

(S.C.R., Order XXXVII)

In the Supreme Court of India

REFERENCE NO. OF 19

In the matter of a reference under article 143 of the Constitution of India.

To

The Attorney General for India.

Whereas under article 143 of the Constitution of India, the President has referred the following question(s) of law (or fact) for consideration and report to this Court:—

(Here set out the question or questions referred.),

take notice that you are hereby required to appear before this Court on the day of 19, at o'clock in the forenoon to take the directions of the Court in the matter.

Witness , Chief Justice of India, the day of
in the year one thousand nine hundred and .

Registrar.

No. 17

Notice to parties of reference under article 143 of the Constitution of India

(S.C.R., Order XXXVII)

In the Supreme Court of India

REFERENCE NO. OF 19

In the matter of (here state the subject matter under reference)

AND

In the matter of a reference under article 143 of the Constitution of India.

To

(Names of parties).

Whereas under article 143 of the Constitution of India, the President has referred the following question(s) of law (or fact) for consideration and report to this Court:—

(Here set out the question or questions referred.),

take notice that you are hereby required if you desire to be heard to cause an appearance to be entered for you in the Registry of this Court on or before the day of 19, and to attend on the said day at o'clock in the forenoon before the Court by an advocate of the Court to take the directions of the Court with respect to statements of facts and arguments and with respect to the date of the hearing.

Witness , Chief Justice of India, the day of
in the year one thousand nine hundred and

Registrar.

No. 18

Summons to attend Taxation.
(S.C.R., Order XLII, rule 11)
In the Supreme Court of India.

[Appellate Jurisdiction.]

[Original Jurisdiction].

Appeal No. of 19 .
Case

[A.B.]
[State of A.B.]

[Appellant]
[Plaintiff]

Vs.

[C.D.]
[State of C.D.]

[Respondent]
[Defendant]

Bill No. of 19 . Here state the names of the parties to the bill.

Whereas Mr. E. F., advocate on record for the appellant (or as the case may be) has lodged a bill of costs (copy appended hereto) for taxation as between [party and party and also as between] advocate on record and client, notice is hereby given that the Taxing Officer of the Court will proceed to tax the said bill on the day of 19 , at o'clock in the forenoon [afternoon] when you may attend the Taxing Officer in his Chambers at the Court House and contest the said bill or any items therein.

Dated this the day of 19 .

Taxing Officer.

No. 19

Affidavit of service of Summons
(S.C.R., Order XLII, rule 14)
In the Supreme Court of India

[Appellate Jurisdiction]

[Original Jurisdiction]

Appeal No. of 19 .
Case

[A.B.]
[State of A.B.]

[Appellant]
[Plaintiff]

Vs.

[C.D.]
[State of C.D.]

[Respondent]
[Defendant]

I, of , Advocate on record for the above named , make oath/solemnly affirm and say as follows:—

I, did on the day of 19 , serve Mr. advocate on record for the above-named in this action (or appeal) with a true copy of the summons now produced and shown to me marked A, by leaving it, before of four in the afternoon at the [office or dwelling house] of the said situate being the address for service in this action [or appeal] [with his clerk or his servant or as may be there] or by post-envelope addressed to the said at , being the address for service in this action [or appeal].

Sworn at this day of 19

Before me.

This affidavit is filed on behalf of the

No. 20

Affidavit of Service by Post.

(S.C.R. Order XLII, rule 14.)

In the Supreme Court of India.

[Appellate Jurisdiction.]

[Original Jurisdiction].

Appeal
Case No. of 19 .

[A.B.]
[State of C.D.]

[Appellant]
[Plaintiff]

Vs.

[C.D.]
[State of C.D.]

[Respondent.]
[Defendant..]

I, _____, advocate on record for the above-named
make oath/solemnly affirm and say as follows:—

I did serve the advocate on record for the above named _____ in this
action [or appeal] [or the above named _____ if he has appeared in person]
with the summons [or notice or other documents] now produced and shown to me
marked A. by posting it on the _____ day of _____ 19 _____, at (name of
post office) a true copy of the said summons (or as may be) in a prepaid envelope
registered for acknowledgement addressed to the said advocate on record [or res-
pondent or as may be] at _____, which is his address for service.

The postal acknowledgement is attached hereto.

Sworn at _____ this _____ day of _____ 19 _____.

Before me.

This affidavit is filed on behalf of the _____ ..

No. 21.

Certificate of Taxation.

(S.C.R., Order XLII.)

In the Supreme Court of India

[Appellate Jurisdiction.]

[Original Jurisdiction].

Appeal
Case No. of 19 .

[A.B.]
[State of A.B.]

[Appellant.]
[Plaintiff.]

Vs.

[C.D.]
[State of C.D.]

[Respondent.]
[Defendant.]

Bill No. _____ of 19 _____. Here state the names of the parties to the bill.

I do hereby certify that I have taxed the above bill of costs, lodged in this
Court by Mr. E.F., advocate on record for appellant [or as the case may be] and
do allow, as between party and party the sum of [amount in figures and words.]

Dated this the _____ day of _____ 19 _____. .

Taxing Officer.

No. 22

Notice of proceedings to Attorney-General for India or Advocate-General of a State.

(S.C.R., Order XLII, rule 1.)

In the Supreme Court of India.

[Appellate Jurisdiction.]

[Original Jurisdiction].

Appeal
Case No. of 19 .

[A.B.]
[State of A.B.]

Vs.

[Appellant.]
[Plaintiff.]

[C.D.]
[State of C.D.]

[Respondent.]
[Defendant]

To

The Attorney-General for India.

OR

Advocate-General of a State.

Take notice that the above-named appeal/case has been filed in this Court [and is fixed for hearing on the day of 19 , and shall be taken up for hearing by the Court on that day, at o'clock in the forenoon, or so soon thereafter as may be convenient to the Court] [and shall be fixed for hearing on a suitable date of which due notice will be given to you.]

As the appeal/case raises [an] important question(s) [here state briefly the question(s) involved] notice is hereby given to you so that you may appear and take such part in the proceedings before this Court as you may be advised.

Dated this the day of 19 .

Registrar.

No. 23

Writ of Commission

(S.C.R. Order XLVI)

In the Supreme Court of India

[Original Jurisdiction]

Case No. of 19 .

[State of A.B.]

Vs.

[Plaintiff]

[State of C.D.]

[Defendant]

To

The Commissioner appointed to examine the undermentioned witnesses on behalf of

I, , hereby appoint you and give you full power and authority to swear or affirm and diligently to examine on interrogatories and *viva voce* as shall be produced before you as witness(es) on behalf of the said in a certain Case No. of now pending in the Supreme Court (wherein) and I further command you that you do at certain days and places to be appointed by you for that purpose of which reasonable notice shall be given to all parties cause the said witness(es) to come before you and then and there examine and cross-examine such witness(es) either upon oath or solemn affirmation which we hereby give you full power and authority to administer to such witness in the form firstly specified at the foot hereof, and that you do take such examination and reduce the same into writing on paper; and when you shall have so taken

the same you are to send the same before the [returnable date as given in the order for the issue of this commission] to the Registrar of the said Supreme Court closed up under your Seal together with such documents as shall be spoken to and marked exhibits and this writ.

And I further empower you to appoint if necessary, a competent interpreter to interpret such of the proceedings under this commission as you may deem necessary to have interpreted from or into the English language. And I further command you that the interpreter employed in interpreting the depositions of the said witness(es) to be examined by virtue of this writ shall, before he be permitted to act as such interpreter as aforesaid, take the oath or affirmation lastly specified at the foot hereof which I hereby give you power and authority to administer to such interpreter. And I do lastly order that the parties to this suit do appear before you in person or by their pleaders.

Witness Chief Justice of India, at the Supreme Court, New
Delhi, the day of in the year one thousand nine
hundred and

Advocate on record for

Advocate on record for

[Names of witnesses to be examined]

Registrar.

NOTE 1.—The Commissioner shall not be bound to execute this commission unless such a sum as he thinks reasonable be deposited with him for the expenses of executing the same and also of summoning the witnesses and defraying their travelling and other expenses.

NOTE 2.—After the deposition of any witness has been taken down, and before it is signed by him, it shall be distinctly read over, and, where necessary, translated to the witness in order that mistakes or omissions may be rectified or supplied. The deposition shall be signed by the witness and left with the Commissioner who shall subscribe his name and date of the examination.

Form of the oath or affirmation to be administered to the witness.

I swear in the presence of Almighty God [or solemnly affirm] that the evidence which I shall give in this case shall be true, that I will conceal nothing, and that no part of my evidence shall be false.

So help me God.

Form of the oath or affirmation to be administered to the interpreter.

I swear in the presence of Almighty God [or solemnly affirm], that I understand and speak the and English languages, and that I will well and truly and faithfully interpret, translate and explain to the witness to be produced before the Commissioner, all questions and answers and all such matters as the Commissioner may require me to interpret and explain.

So help me God.

N.B.—The words “so help me God” are to be omitted when an affirmation is administered.

The execution of this commission appears by the Schedule hereunto annexed.

No. 24

Form of Lodgment Schedule

In the Supreme Court of India.

Suit/Appeal/Petition No. of
 Plaintiff(s)/Appellant(s)/Petitioners(s)
 Versus
 Defendant(s)/Respondents(s)

Date of Order	Amount	Party on whose behalf and the purpose for which the payment is made	Remarks

Dated

Issue Chalan

Time for payment till

(Signature)

Advocate for party making the payment.

(Signature)

Registrar.

No. 25

Deposit Repayment Order and Voucher

(Vide T.R. Form 61)

To

The New Delhi Sub-Treasury.

Name of Account Voucher No.

Original Number Name of Depositor

Date of Receipt

Amount originally Deposited

Ex mined and entered.

Received this.....day.....

Date

Accountant, Treasury.

.....19.....the sum
 of Rs.....being
 the amount payable out of the said
 deposit as per order of the Supreme Court
 dated.....made in
of
 19.....

by Rs.
 Treasury Officer Claimant's Signature
 Date Passed for payment to
 for Rs.
 as per Order of the Supreme Court
 dated in C. M. P.
 No. of
 19.....

Date

Registrar,
 Supreme Court of India, New Delhi.

No. 26

Form of Bank Guarantee

In the matter of:

CIVIL APPEAL/PETITION/C.M.P...... (here give the
 number of Cause/matter/appeal)

And

In the matter of:

..... (Give the name of the parties)

Whereas (Here give the name of the party obtaining the order)
 (above-named has filed an Appeal in the Supreme Court
 against the Judgment and decree/order of the (here describe the Court
 and the number of the cause)

And whereas on a motion made for the purpose on the (here give
 the date) the Supreme Court of India has in the aforesaid proceedings been pleased
 in order *inter alia* as follows:

(Here quote the relevant terms of the order)

And whereas (here give the name of the party concerned) the
 respondent (or appellant, as the case may be) has requested us
 (here give the name of the Bank) having its registered office at
 (here give the registered address of the place of business of the Bank) to guarantee
 the due payment of the said sum of Rs. (here give the amount) by the
 said (here give the name of the party) in the event of the Supreme
 Court allowing/modifying/dismissing the said appeal and setting aside the decree
 or such other lesser amount as the Court may order. We (here give
 the name of the Bank) are hereby held and firmly bound unto the Supreme Court
 of India through the Registrar of the said Court for the payment to it or to the
 (here give the name of the party concerned) on demand
 and without demur of the said sum (here give the amount) or such
 other lesser amount as may be ordered by the Supreme Court and require to be
 paid or refunded by the (here give the name of the party con-
 cerned) to the (here give the name of the party to whom the amount
 is to be paid) as a result of the final disposal of the said (here
 indicate the appeal, cause or matter) and the guarantee herein contained shall
 not be affected by any change in the constitution of the Bank and it is HEREBY
 agreed by and between the parties that this guarantee shall remain in full force

and virtue till the disposal of the (here give the number of the case, appeal, cause or matter) to which the aforesaid order of the Court relates and until an order of the Supreme Court is made discharging this guarantee.

IN WITNESS WHEREOF we the (here give the name of the Bank) has executed this.

This the day of 19 ..

Signed

Witness:

for the (here give the name of the Agent of the Bank).

[No. F. 10/65/S.C.M.J. (II).]

By Order of the Court.

GURU DATTA,
Deputy Registrar.